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THE
ASIATIC SOCIETY OF BOMBAY
Town Hall, Bombay



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FOR JANUARY 1857.



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CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN JANUARY 1857.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

1857
January 7.

[Case No. 40 of the Calendar of the Khandeish Sessions Court for 1856.
Committed by the Deputy Magistrate, R. RAM NAID, on the 11th
December 1856. Tried by the Session Judge, A. ST. J. RICHARD-
SON, on the 13th December 1856. Proceedings submitted to the
Sudder Foujdaree Adawlut, for confirmation.]

KHANDEISH

Prisoners.—No. 1, Nuktia wulud Doobla Gavit,
Mouncha, aged 50.
2, Hirkia wulud Hugria, Mouncha,
aged 30.
3, Dava wulud Nikria, Mouncha,
aged 22.
4, Moehia wulud Mungul, Bheel,
aged 30.
5, Nuktia wulud Bhaejee, Mouncha,
aged 50.
6, Ootia wulud Rama Wulve, Bheel,
aged 50.
7, Chamria wulud Jania, Mouncha,
aged 30.

Murder.

Charge.—Murder; in having, on the night of Thurs-
day, the 13th November 1856, (corresponding with

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KHANDEISH.

Murder.

Kartik Wud Ist, Shuké 1778,) at Mohunpara, a hamlet of Curunjee Boozroog, Sub-division Nowapoor, District Pimpulnair, Province Khandeish, prisoner No. 1, ordered a woman by name Mungo, wife of one Nathia Wulvee, aged fifty years, to be forcibly brought before him, and subjected to torture, on the supposition of her being a witch, as declared by prisoners Nos. 5 and 6; also furnished ropes and chillies for that purpose; while prisoners Nos. 2 to 7 tortured her by applying pounded chillies to her eyes, suspending her by a rope tied to her wrist, and branding her in several parts of her body; prisoner No. 7 further suspending her in a like manner on the following morning; from the effects of which torture the said Mungo died on 21st November 1856; thereby the prisoners rendering themselves amenable to the provisions of Regulation XIV. of 1827, Section XXVI. Clause 1st.

Prisoners plead not guilty.

A. St.J. Richardson, Session Judge.

Finding and Sentence by the Sessions Court.—The Court has in this trial nothing to consider, and the offence is unfortunately one which is not rare among the people of that part of this province where this atrocious act of senseless cruelty was perpetrated. On the 7th July 1854, this Court tried six men for an exactly similar offence; the perpetrators were from the Nowapoor Sub-division of the District of Pimpulnair, as are those at present before the Court; the prisoners then pleaded not guilty, and on the Court passing sentences of fourteen years' imprisonment, with hard labour, and less upon each of those convicted, under the impression that the enactment provided a maximum degree of punishment and included any term short of that, it was ruled that a legal sentence had not been passed. In the present trial the facts are abundantly proved by the very simple and unmistaken testimony on evidence marked Nos. 5 and 6; and the confessions of the prisoners marked Nos. 11,

12, 13, 14, 15, 16, and 17, in each of which the part taken by each person is detailed ; and though there was no Inquest, and the evidence of the witnesses Nos. 3, 4, 5, and 6 is, as may be expected to be of those who look on such barbarous acts of rude vengeance as lawful and right, attributed to natural causes, yet the evidence in Nos. 3 and 4 substantiates the fact of the death of the woman Mungo, who is described as fifty years of age, and so old as to have few teeth, and sufficiently young to have a child only six years old, and the evidence in Nos. 5 and 6 details the method of torture, adopted at the suggestion of prisoners Nos. 5 and 6 (Nuktia wulud Bhaejee and Ootia wulud Rama), who are spoken of as 'bhuguts' or wizards, they of course well knowing the result of such a denunciation, and executed by prisoners No. 2 (Hirkia), No. 3 (Dava), and No. 4 (Mochia) at the direct order of the prisoner No. 1 (Nuktia wulud Doobla Gavit), before whose door the whole scene was enacted, and who is described by witnesses Nos. 5 and 6 (Kagdia and Bhudia) to have ordered the deceased Mungo to be brought from her village, and directed the particular torture, while the same evidence shows that prisoner No. 7 (Chamria), who was one of those who brought her from her village, took as revengeful a part in the torture as any, by hanging her a second time on her declaring his mother also to be a witch. The effects of the previous torture there are no means of testing ; to the ideas of the offenders the whole act of cruelty was a mere pastime, but the result, now for the fourth time since 1852, the same from precisely the same cause, is sufficiently explanatory ; so that, although the prisoners are not on evidence shown to have entertained the design of taking life, yet, as the result has been exactly the same in every case of this species of torture on record, it is but reasonable to believe that the act is such as usually is attended with the destruction of life, and being so, or

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Murder:

even considering simply as defined in the enactment for murder an "unlawful act," the Court is of opinion that the prisoners are all convicted on the evidence, and on their confessions, of murder; in having, on the night of Thursday, the 13th November 1856, (corresponding with Kartik Wud 1st, Shuké 1778,) at Mohunpara, a hamlet of Curunjee Boozroog, Sub-division Nowapoor, District Pimpulnair, Province Khandeish, prisoner No. 1, ordered a woman by name Mungo, wife of one Nathia Wulvee, aged fifty years, to be forcibly brought before him, and subjected to torture, on the supposition of her being a witch, as declared by prisoners Nos. 5 and 6; also furnished ropes and chillies for that purpose; while prisoners Nos. 2 to 7 tortured her by applying pounded chillies to her eyes, suspending her by a rope tied to her wrist, and branding her in several parts of her body; prisoner No. 7 further suspending her in a like manner on the following morning; from the effects of which torture the said Mungo died on the 21st November 1856; and the Court proceeds to pass the following sentence:—

You, prisoners No. 1 (Nuktia wulud Doobla), No. 2 (Hirkia wulud Hugria), No. 3 (Dava wulud Nikria), No. 4 (Mochia wulud Mungul), No. 5 (Nuktia wulud Bhaejee), No. 6 (Ootia wulud Rama), and No. 7 (Chaimria wulud Jania), having been convicted, on your own confessions and evidence this day recorded, of murder, be each of you transported beyond seas for the term of your natural lives, agreeably to the provisions of Regulation XIV. of 1827, Section XXVI. Clause 4th; regard being had to the purport of Clause 2nd of the same enactment as suitable to the circumstance of the case.

The above sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—Though no Inquest was held, there can be no doubt of Mungo's having died from the injuries inflicted

upon her at Mohunpara; and that these injuries were inflicted by the prisoners, the evidence for the prosecution and their own confessions fully establish. The conviction therefore must be confirmed; the sentence also, though, if it was possible, I would have recommended a mitigation of the sentence against some of them, but that unfortunately I cannot do.

Nuktia wulud Doobla was the cause of the unhappy woman being sent for, and was by while they tortured her; Hirkia, Dava, Mochia, and Chamria went to Sonkurke to fetch the deceased, and all took an active part in the cruelties practised upon her. Nuktia wulud Bhaejee and Ootia were the bhuguts consulted on the occasion, and had they been proved to have done nothing more than denounce her, I would, as in Akhatia's case (Morris's Reports, Vol. II. page 267), have confirmed the sentence of transportation. As it is, they also took an active part, and inflicted perhaps the most fatal if not the most excruciating torture upon her. I therefore see no grounds for extending mercy to them.

The Session Judge examined Vishnoo (witness No. 9) to prove the deposition of Nathia deceased, but he omitted to prove that the deposition was made in the prisoners' presence, which would alone constitute it such a deposition as could be received in evidence. I do not find that either the Session Judge or Deputy Magistrate has taken any notice of what the prisoner Nuktia wulud Doobla says about his having gone with deceased, Hirkia, and Mochia to Nowapoor to Dinkur Mahiput, or what Mahiput Khunderow told them; the latter, whoever he is, was an important witness, and ought to have been examined as to the state Mungo was in, and some explanation of the absence of Dinkur Mahiput, who appears to be a Government Official, ought to have been afforded.

The Session Judge having corrected the error in the

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KHANDEISH.

Murder.

R. Keays, Acting
Puisne Judge.

next case, No. 41, and sworn the interpreter before he read the charge to the prisoner, no notice need be taken of the mistake in this case, as there is no doubt the prisoners knew the charge to which they pleaded.

Minute by Mr. Keays.—There can be no doubt that the prisoners did take the parts in the assault on this old woman assigned to them in the charge. This is proved from their own confessions, as well as by the evidence (Nos. 5 and 6) recorded in the case. From the evidence of the deceased's husband it is established that she died eight days afterwards, from the effects of wounds received during her absence; and therefore the prisoners having been engaged in an unlawful act, resulting in the death of their victim, have been properly convicted of murder. I can see no reason to interfere with the conviction, and am prepared to confirm the sentence.

As the assault was committed on the 13th November, and death did not occur till the 21st idem, steps should have been taken to prevent the removal of the body of the deceased until after an Inquest had been held on it.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

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KHANDEISH.

Murder.

Present, { WILLIAM EDWARD FRERE,
ROBERT KEAYS, } Puisne Judges.

[Case No. 41 of the Calendar of the Khandeish Sessions Court for 1856. Committed by the Deputy Magistrate, R. RAM NAID, on the 12th December 1856. Tried by the Session Judge, A. ST. J. RICHARDSON, on the 15th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Prisoner.—Dama wulud Doolja, Bheel, aged 50.

Charge.—Murder; in having, at noon, on Monday the 17th November 1856, (corresponding with Kartik Wud 5th, Shuké 1778,) at the village of Makudkoond, Sub-division Akhranee, Division Kookurmoonda, District

Sooltanpoor, Province Khandeish, wilfully, and of malice aforethought, attacked a woman named Tijoo, wife of Tarjee, aged about forty years, on the supposition of her being a witch, and depriving her of life, by inflicting on her neck and back two blows with a hatchet, from the effects of which she died there and then ; thereby rendering himself amenable to the provisions of Clause 1st, Section XXVI. Regulation XIV. of 1827.

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Murder.

Prisoner pleads guilty.

Finding and Sentence by the Sessions Court.—The Court has attentively considered the evidence for the prosecution, and omitted recording the testimony of one witness, under the impression that, being the adopted son of the prisoner, his evidence for the defence rather than the prosecution might elicit some facts in extenuation of this awful offence. The Court observes that two charges of murder, in each case under the impression that the victim was a witch, were on Saturday last committed for trial, and decided, one on the day of arrival and one this day ; making the number of three instances of fatal vengeance taken upon unfortunate helpless females which have been brought to the notice of the present Session Judge ; and two of these murders (Case No. 29 of the General Calendar for 1854, and also No. 40 of 1856) were committed in the same district, and that this day investigated was perpetrated in the same district as one the trial for which was held before the Sessions Court in 1852 (Case No. 56 of the General Calendar for 1852). There were two such trials and convictions in 1852, one in 1854, and two for murders committed during the past month.

A. St.J. Richardson, Session Judge.

The evidence now on record admits of no erroneous impression ; the facts are distinctly established by the testimony of eye-witnesses, men, it is true, who appear to look on the prisoner's offence as commendable, and not a subject of either terror or astonishment, and who

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appear to have a strong determination to speak the truth.

The prisoner, Dama wulud Doolja, an elderly man, and the Police Patel, head of the village of Makudkoond, appears from his own statement, and the evidence recorded, to have received the impression that the death of two or three members of his family and some of his animals had been caused by the influence of the deceased, a married woman, and had directed her to leave his village. As the witnesses affirm, some days before the fatal assault, and on the morning of the 17th November 1856 (five days after the full moon), he went to her house, and, repeating the same words, followed her as she left the village and struck her two blows on the head with the hatchet (that in Court), of the effects of which she instantly fell and died, as the eye-witnesses, whose evidence is entered Nos. 2, 5, 6, and 7, have distinctly affirmed, and her son Kooshia (witness No. 2), and witnesses Nos. 3 and 4 were present when the body was burnt on the following day. The Court, even in the absence of an Inquest, finds no cause to doubt the fact that deceased was killed by the prisoner and actually is dead. The intention is deposed to by the evidence No. 2, who says that prisoner took the hatchet in his hand to turn the deceased out of the village; by the evidence of the youth Poora (witness No. 5), who declares that a few days before the murder the prisoner Pâtel Dama did say, "If you do not leave the village I shall," and went to her house accusing her of having caused the death of his children and his cattle; and a somewhat similar assertion that deceased was a witch is affirmed by the evidence entered Nos. 6 and 7. The prisoner's statement, which he has acknowledged to be true, contains the same expressions, motives, and description of his fatal vengeance; and notwithstanding the evident grief, amounting almost to despair, which characterised

the address of the prisoner during this trial, the Court has not the slightest ground to believe but that the prisoner did, in a deliberate mood, perfectly comprehending the nature of the crime he was about to commit, follow the deceased for the intention of killing her, because he believed her to be a witch ; and therefore the Court can record no recommendation for mercy, but, believing the evidence recorded, finds the prisoner, Dama wulud Doolja, upon evidence and his confession, convicted of murder ; in having, at noon, on Monday the 17th November 1856, (corresponding with Kartik Wud 5th, Shuké 1778,) at the village of Makudkoond, Sub-division Akhranee, Division Kookurmoonda, District Sooltanpoor, Province Khandeish, wilfully, and of malice aforethought, attacked a woman named Tijoo, wife of Tarjee, aged about forty years, on the supposition of her being a witch, and deprived her of life, by inflicting on her neck and back two blows with a hatchet, from the effects of which she died there and then ; and the Court proceeds to pass the following sentence :—

You, Dama wulud Doolja, having been convicted, upon evidence this day recorded against you, and your full confession, of murder, do undergo the sentence of death, by being taken to the usual place of execution at Dhoolia, and there hanged by the neck till you are dead, agreeably to the provisions of Regulation XIV. Section XXVI. Clause 4th, of 1827. And with reference to a recent execution at this Station, when the criminal was permitted, in the absence of the Session Judge, to array himself in coloured garments, indicative of his dying as a martyr for his religion (he being a convert to Mahomedanism), it is merely specified that the convict be clothed in the ordinary dress of the convicts of the Jail at Dhoolia, agreeably to the provisions of Clause 2nd, Section IV. of Regulation XIV. of 1827.

The above sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

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W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—The conviction and sentence should be confirmed. Mr. Richardson wasted a great deal of time in making a trial of this case. It would have been quite sufficient, after the prisoner pleaded guilty, if he had, under Clause 2nd, Section XXXVII. Regulation XIII. A. D. 1827, read the witness Toolia's deposition before the Deputy Magistrate, and the prisoner's own confession, and then, if he adhered to his plea, have recorded his finding the prisoner guilty, and proceed to pass sentence upon him. A protracted trial, in so clear a case, must add to the prisoner's misery, and can be attended with no good result.

As the Session Judge has not done it, the Court ought to call the Magistrate's attention to these two cases, in neither of which has an Inquest been held. The part of the country in which the crimes were committed is perhaps scarcely civilised, but the Magistrate should be requested to take steps to see the Regulations are more observed there than they have been.

R. Keays, Acting
Puisne Judge.

Minute by Mr. Keays.—The prisoner Dama wulud Doolja has been convicted, on his own confession and the evidence, of murder, and sentenced to death. The murder appears to have been committed under the impression that the prisoner was performing a commendable act in removing from the world a witch, whom he supposed to have been the cause of misfortunes which happened to him in the deaths of certain members of his family and by the loss of his buffalo. In former cases of this nature, I think it has been the custom to take into consideration the ignorance of these misguided persons, and mercifully commute the extreme sentence of the law to one of transportation. In those cases, however, which came before me, it was generally the village people who committed the murder *en masse*, to avert the ravages of cholera. In this case, however, it

is an individual who revenges himself for an imaginary injury, and in the most cold-blooded deliberate way murders his victim, and I am afraid it would not be expedient to interfere with the sentence.

I would confirm conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

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KHANDEISH.
Murder.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 167 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Third Assistant Magistrate, G. W. ELLIOT, on the 18th November 1856. Tried by the Session Judge, A. W. JONES, on the 3rd, 4th, and 5th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

BELGAUM.

Prisoner.—Shida bin Chunapa, Punchal, aged 25.

Murder.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in having, on Monday, the 10th November 1856, (corresponding with Kartik Shood 13th, Shuké 1778,) at about midday, and in the house of Buslingaya, of the village of Gormunkole, in the Purshgur Talooka, in the Belgaum Division of the Dharwar Zillah, seized by the throat, and so suffocated Sidrama, the child of one Powadapa, of the same village, that he then and there died.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with murder, and pleads not guilty.

A. W. Jones,
Session Judge.

It appears that the complainant missed his child, a boy of about five years old, on Monday, the 10th November, and, having searched and inquired all about his own village of Gormunkole till the evening without success, then reported the matter to the Police Patel. The next morning he told the Police Patel he did not suspect any one in particular, but, at the same time,

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mentioned that he had seen the prisoner leave the village with a basket on his head, in the course of the day before.

The Police Patel therefore sent for the prisoner, and the Shetsundee who went for him deposes that, on going to his house, he saw that there was some blood on his 'dhotur,' and he observed that the prisoner left it and accompanied him clothed only with his 'cumblee'; by the time they returned to Gormunkole the Joint Police Officer had arrived, and the prisoner was given over to his charge. And it is shown, by witnesses Nos. 8 and 9, that the prisoner, on being questioned about the blood on his dhotur (which is unmistakeable), at first said it was from his nose, and then admitted it was that of the murdered child, and pointed out where he had buried its body, in the back yard or ground behind his house.

He is then shown to have given up part of the ornaments taken from the child, which he had managed to conceal when on the road to Gormunkole with the Shetsundee; and he is also shown by these same witnesses to have given up some more of the ornaments, which were hidden in the roof of his own house; and again he was taken back to the place whence he had given up the first portion of ornaments, and, on searching the grass, the remainder were found there. All the ornaments thus found are identified by the complainant as those worn by his child. It is then proved that the body of the murdered child was found in the heap of rubbish the prisoner had pointed out in the first instance, as the place where he had buried it; and the Inquest Report, proved and recorded before the Court, shows that the body bore marks of blows on the mouth and of strangling, and there can be no manner of doubt that the child was murdered.

It is then proved that the prisoner confessed the crime in detail before the Police Amuldar on the same day on

which he had given up these ornaments; and it is also shown that he confirmed this confession before the Assistant Magistrate; and it appears from the Assistant Magistrate's proceedings that the prisoner also pleaded guilty before him, and made no defence whatever. Before the Court, the prisoner's defence is a denial, and an assertion of having been beaten; but he does not name any witness, nor does he allude to the giving up of the ornaments.

The witnesses Nos. 6, 7, and 3 certainly showed a singular forgetfulness as to the order of the giving up by the prisoner of the various articles belonging to the murdered child; but the Session Judge does not think there is any reason to doubt the truth of the evidence in the case, and therefore convicts the prisoner of murder; in having, on Monday, the 10th November 1856, (corresponding with Kartik Shood 13th, Shuké 1778,) at about midday and in the house of Buslingaya, of the village of Gormunkole, in the Purshgur Talooka, in the Belgaum Division of the Dharwar Zillah, seized by the throat, and so suffocated Sidrama, the child of one Powadapa, of the same village, that he then and there died.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th, of 1827, the following sentence is passed:—

That you, Shida bin Chunapa, be taken to the common place of execution, and there be hanged by the neck till you are dead. Subject to the confirmation of the Sudder Foujdaree Adawlut.

* * * * *

The Assistant Magistrate should have charged the prisoner with murder and robbery.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere, concurred in by Mr. Keays.—There can be no doubt of the prisoner's guilt, and the conviction and sentence should be confirmed.

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BELGAUM.

Murder.

W. E. Frere,
Puisne Judge.
R. Keays, Act-
ing Puisne Judge.

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I do not think I ever saw a case in which the recklessness and inattention with which witnesses in this country depose is so strongly exhibited as in this. It is hardly possible to believe that three witnesses, such as Sidlingapa (No. 3), Eerya (No. 6), and Ramungowra (No. 7) could have been found to depose in the heedless manner they did in one single case, and that a case of life and death. Few cases occur in which one might not find one such witness, but I never recollect to have met with so many in one case before. The Session Judge has not failed to notice it in his finding; but I do not see that he reprehended the witnesses, as he should have done, for such, to say the least of it, unseemly conduct.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

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KONKUN.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 82 of the Calendar of the Konkun Sessions Court for 1856. Committed by the Assistant Magistrate, C. GONNE, on the 23rd September 1856. Tried by the Acting Session Judge, H. P. Sr^g G. TUCKER, on the 8th, 10th, and 11th October 1856. Proceedings certified on the petition of the prisoner.]

Prisoner.—Malia, Son of Bendia, sometimes called Malia, Son of Chang Matra, Agree, aged 40.

Robbery by Night,
with Force; and
Criminal Receipt
of Stolen Pro-
perty.

Charge.—Robbery by night, with force (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in that, on the night of 26th June 1856, (Mitee Jésh^t Wud 9th, Shuké 1778,) he did force his way into the house of Bhika Purshotum Wanee, in Kusb^a Bassein, Tanna Division of the Zillah Konkun, and breaking open a cupboard in the said house, did take therefrom ornaments and cash to the value of Rs. 1,681-10-0, or thereabouts, the property of the said Bhika Purshotum; and with

criminal receipt of stolen property (Regulation XIV. of 1827, Section XLI. Clause 1st); in that, exact time and place unknown, but some time after the 26th June 1856, (Mitee Jésh't Wud 9th, Shuké 1778,) in the Tanna Division of Zillah Konkun, he did receive Co.'s Rs. 122, and old Poona currency Rs. 18, total Rs. 140, which had been stolen from Bhika Purshotum Waneé at Kusba Bassein, he at the same time well knowing that the said rupees had been stolen, and did give no information to any public Officer.

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—Rejecting the deposition of the witness Khundo Tubajee (No. 3), who was evidently an accessory to the robbery, and whose statements therefore cannot be relied on, the evidence in this case establishes that Rs. 140 were discovered in the possession of the prisoner, the honest acquisition of which he has been unable to prove in any way, and that coins of a similar description were stolen about two months previously from the house of Bhika Purshotum (witness No. 1). One witness (No. 4) declares that he can identify the rupees as the same which he once saw in the possession of Bhika, but this statement is a palpable exaggeration, as it is impossible, under the circumstances, that the witness could be certain as to the particular coins, though he might testify to their general similarity. It would further appear, and is admitted by the prisoner, that at his first arrest he declared that the bag of money found near him did not belong to him. This at once shows that he was conscious that the money had not been honestly acquired, and his plea that he made this declaration when in a state of intoxication is no sufficient explanation of this part of his conduct.

Such being the facts proved against the prisoner, are they sufficient to convict him of either of the charges on

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Robbery by Night,
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perty.

H. P. St.G.
Tucker, Acting
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perty.

which he has been arraigned? I am of opinion that they do establish the prisoner to have been a receiver of stolen property from Bhika Purshotum. The circumstances under which the rupees were found, and the resemblance they bore to those stolen from Bhika, at once create a presumption that the rupees were Bhika's, and that the prisoner either stole them or received them from those who did so. Such being the case, it fell to the prisoner to rebut that presumption, by showing how and where he got this money. He has attempted to do this, and has named several persons from whom he received the money, but they have one and all denied that they ever paid him the sums stated. Under these circumstances, the only reasonable conclusion which can be drawn is, that the money was Bhika's, and that the prisoner either stole it or received it. From the time that elapsed between the robbery and the discovery of the property, the latter is the more probable presumption.

I therefore convict the prisoner of the criminal receipt of stolen property; in that, exact time and place unknown, but some time after the 26th June 1856, (Mitee Jésh't Wud 9th, Shuké 1778,) in the Tanna Division of Zillah Konkun, he did receive Co.'s Rs. 122, and old Poona currency Rs. 18, total Rs. 140, which had been stolen from Bhika Purshotum Wanee at Kusba Bassein, he at the time well knowing that the said rupees had been stolen, and did give no information to any public Officer.

Read and recorded a warrant dated 27th December 1843, by which Malia Chang Matra, was sentenced to six months' imprisonment with hard labour for robbery, with force, exceeding ten rupees. (No. 10.)

The prisoner admits that he underwent this sentence, and that he used to be called Malia Chang Matra. Chang Matra was his mother's first husband, but his (prisoner's) real father's name is that which he has now given, i.e. Bendia Boer.

Read and recorded a warrant dated 16th June 1846, by which the prisoner Malia, or Malia Chang Matra, was sentenced to seven years' imprisonment, with hard labour, on a conviction of gang robbery by night, with force. (No. 11.)

The prisoner admits he is the person named in the warrant, and that he underwent this sentence.

The prisoner being an old offender, I pass on him the severest sentence which the law will admit for the crime of which he has been convicted.

The prisoner Malia son of Bendia Boer, sometimes, called Malia son of Chang Matra, is sentenced to be imprisoned and kept to hard labour for the period of five (5) years from this date, and to receive fifty (50) stripes on his bare back with a cat-o'-nine-tails, twenty-five (25) at the expiration of one month from this date, and twenty-five (25) two months subsequently. (Regulation XIV. of 1827, Section XLI. Clause 1st.)

In the Sudder Foujdaree Adawlut ; Minute by Mr. Keays.—The rupees found in his possession are sworn to by complainant as being his : it therefore rested with the prisoner to prove that they came honestly into his possession. This he attempted, but entirely failed to do ; and as it is in evidence that when first arrested he endeavoured to pass the bag of rupees to Ragho, and denied that they were his, I fully concur with the Session Judge that he is guilty of criminal receipt of stolen property ; and, looking at former convictions recorded against him, I am prepared to confirm conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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KONKUN.

Robbery by Night,
with Force ; and
Criminal Receipt
of Stolen Pro-
perty.

R. Keays, Acting
Puisne Judge.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDABAD.
Public Nuisance.

[Petition of Sheroolal and twelve others to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmedabad, J. W. HADOW, on the 10th December 1856, for Report.]

Petition of Sheroolal and twelve others to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate of Ahmedabad, removing from the town their shops for dyeing leathers, may be annulled.]

Precept issued to the Magistrate.—[Calling on him to report on the petition which was sent to him for the purpose.]

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the Court's Precept, the Magistrate of Ahmedabad has the honour to report, that a petition was presented to him by certain inhabitants residing in Khamasha Chukla, in the City of Ahmedabad, complaining of the nuisance caused by petitioners, who are tanners, curing the skins of goats and sheep in the immediate neighbourhood of their houses, and was referred to the Hoozoor Deputy Magistrate for inquiry and report.

Mr. Jordan reported that there were grounds for the complaint, as the stench from the tanpits was very offensive, and injurious to the health of those residing within the neighbourhood. It was therefore deemed proper to issue a notice on petitioners, requiring them to remove the nuisance within eight days.

Petitioners, disregarding the Injunction, were fined for disobedience of the Magistrate's order, under the provisions of Act XXI. of 1841. The Magistrate reviewed the proceedings of the Hoozoor Deputy Magistrate on appeal, and finding no reason to interfere, informed petitioners accordingly.

As regards the complaint that they were not allowed to appeal to a 'punchayet,' or jury, the Magistrate begs to state that their request would have been granted had it been made within the period prescribed in the notice.

The Guzerathee report is appended, and the original petition is returned as directed.

Resolution of the Sudder Foujdaree Adawlut.—Petitioners not having pursued the course laid down in Act XXI. of 1841, the Court cannot interfere, and reject the petition.

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AHMEDABAD.
Public Nuisance.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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BROACH.
Precautionary
Measures.

[Reference from the Magistrate of Broach, C. J. DAVIES, of the 23rd December 1856, to the Sudder Foujdaree Adawlut, recommending the further detention in Jail of the prisoner Mahomed Oosman for one year, in default of furnishing security.]

Letter from the Magistrate to the Registrar Sudder Foujdaree Adawlut.—Agreeably to the provisions of Regulation XII. of 1827, Section XXVII. Clause 1st, I have the honour to request that you will obtain the sanction of the Court of Sudder Foujdaree Adawlut for the further detention in jail of prisoner Mahomed Oosman for one year from the 19th January 1857, under the circumstances stated below :—

On the 4th May 1843 Mahomed Oosman was sentenced to fifteen days' imprisonment for using abusive language ; on the 3rd January 1853 he was fined Rs. 3 on the same account ; on the 19th March 1853 he was imprisoned fifteen days for assault ; on the 2nd February 1854 he was fined Rs. 1 for using abusive language ; and on the 16th August 1855 he was ordered to enter into a recognisance bond, in consequence of his having been found gambling in the public streets ; subsequently he was

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committed for trial before the Sessions Court on a charge of forgery, but was acquitted by the Senior Assistant Session Judge, on the 4th January 1856. The Senior Assistant Session Judge, however, recorded his opinion that the case was a most suspicious one, and that so much had come out against the prisoner, that it was necessary to send him to the Magistrate for the adoption of precautionary measures. In consequence, on the 15th January 1856, the late Magistrate called upon Mahomed Oosman to furnish security, in the sum of Rs. 100 for his good conduct for two years, and on the 19th January 1856 ordered him to be imprisoned for that period, as he had failed to furnish the security required. The period for which he can be detained in jail on the Magistrate's warrant will expire on the 18th January next.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is to be released on his own recognisance.

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KAIRA.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 1 of the Criminal Return of the Magistrate of Kaira for August 1856. Tried by the First Assistant Magistrate, L. R. ASHBURNER, on the 26th July and 4th August 1856. Reviewed on appeal by the Magistrate, J. R. MORGAN, on the 15th August 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner, Girdhur Bechur.]

Conduct calculated to Provoke a Breach of the Peace.

Prisoners.—No. 1, Jeychund Hureebhaee, Banian, aged 35.
2, Luloo Hureebhaee, Banian, aged 27.
3, Jetha Mankeshwur, Brahmin, aged 50.

Prisoners.—No. 4, Girdhur Bechur, Banian, aged 35.

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Charge.—Conduct calculated to provoke a breach of the peace (Regulation XIV. of 1827, Section XXIX. Clause 2nd); in having, with others to the number of about two hundred, on the 27th June 1856, (Jésht Wud 10th to 12th,) assembled together in a riotous manner, and insolently and insultingly ordered the Babi of Balasinore to turn out of a public dhurumsala in the town of Kupurwunj, at the same time scattering the property of his followers about the dhurumsala, by which wearing apparel and sundries valued at about Rs. 10 were stolen or lost.

Conduct calculated to Provoke a Breach of the Peace.

Prisoners plead not guilty.

Finding and Sentence by the First Assistant Magistrate.—The whole of the prisoners are recognised as having taken part in an attempt to turn the Babi of Balasinore out of a public dhurumsala at Kupurwunj, on the plea that he was defiling it by killing goats and fowls there. I see no reason to doubt the credibility of the witnesses for the prosecution (further, of course, than the statement of every Native witness must be doubted), while the manner of the witnesses for the defence leaves not the slightest doubt in my mind that they are every one perjured. It is impossible to place on record and give logical reasons for arriving at this conclusion, but any one who has had any experience with Native witnesses will know what I allude to. This being my opinion of the whole evidence for the defence, I will not attempt to analyse it, though, even supposing it to be good evidence, it is open to many objections. Where both parties are prepared to perjure themselves to any extent, the probabilities of the case are a surer guide to the truth than the depositions of the witnesses. In this case they are all in favour of the prosecution.

L. R. Ashburner, First Assistant Magistrate.

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· KAIRA.

Conduct calculated to Provoke a Breach of the Peace.

The Hindoos of Kupurwunj are notoriously bigoted, and jealous of any infringement of their religious prejudices, and riots have more than once taken place on this account.

The statement of the witnesses for the prosecution is only what would have been predicted to have occurred by any one who was aware of the feelings of parties at Kuperwunj on their receiving information that the Babi was killing goats in the dhurumsala. I am only surprised that the followers of the Babi did not use their swords, and that blood was not shed on the occasion; probably the greater part of them were out with the Babi at the time, and the few who remained were afraid to attack such a large party of Hindoos.

Except in mitigation of punishment it is not a question for present consideration whether the Babi did or did not kill goats in the dhurumsala, or whether the latter is private property or not. It appears that both Hindoos and Mussulmans put up in the dhurumsala, and a place of this kind is well understood to be public property. There is no evidence to prove that the Babi did kill goats in the dhurumsala, but as it is most probable that he did, I will give the prisoners the full benefit of this doubt.

As the Babi was conducted to the dhurumsala by two influential Hindoos of Kupurwunj, one of them a Brahman, who must have known the Babi's habits, it seems that it was not the act of killing goats in that particular that was objected to, but the sin of destroying life at all was the cause of quarrel.

I find the prisoners guilty of conduct calculated to produce a breach of the peace, and, as this is not the first time the Hindoos of Kupurwunj have been guilty of a riot on similar occasions, they must be taught a lesson of toleration, and the impropriety of taking the law into their own hands.

They are sentenced to imprisonment, with hard labour,

for two (2) months, and for one (1) on conjee diet, to be given for the first ten days of each month. (Regulation XIV. of 1827, Section XXIX. Clause 2nd.)

Confirmation by the Magistrate on Appeal.—From a perusal of the evidence taken and recorded in this case, the Magistrate is of opinion that the prisoners have been rightly convicted and sentenced, and he therefore declines to interfere in the sentence come to by the First Assistant Magistrate, and the petitioners are thus informed.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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KAIRA.

Conduct calculated to Provoke a Breach of the Peace.

J. R. Morgan,
Magistrate.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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DHARWAR

[Case No. 21 of the Criminal Return of the Magistrate of Dharwar for September 1856. Tried by the First Assistant Magistrate, S. ST. J. GORDON, on the 29th September 1856. Confirmed by the First Assistant Magistrate in Charge, S. ST. J. GORDON, on the 15th October 1856. Reviewed by the Session Judge, A. W. JONES, on the 25th November and 5th December 1856, and proceedings submitted to the Sudder Foujdaree Adawlut for final decision.]

Prisoners—No. 1, Jakowa, Wife of Nursing, Weaver, aged 34.

Fraud.

2, Busapa bin Sungapa, Lingayet, aged 40.

Charge.—Fraud (Regulation XIV. of 1827, Section XL.); in that, in the village of Hooneehulle, Péta Misrekote, Talooka Hooblee, Zillah Dharwar, on Wednesday, the 13th August 1856, (Mitee Shrawun Shood 12th, Shuké 1778,) at about 5 o'clock in the evening, the prisoner No. 2 himself removed, and prisoner No. 1 caused prisoner No. 2 to remove, fifty-two 'pylees' of 'jowaree,' Rs. 9 and 12 annas in value, the property of the prose-

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DHAKWAR.

Fraud.

S. St. J. Gordon,
First Assistant
Magistrate.

cutrix, Tipoka, from a pit where it was kept, under circumstances which enabled the act to be committed without either force or secrecy.

Prisoners plead not guilty.

Finding and Sentence by the First Assistant Magistrate, and confirmed by him as First Assistant Magistrate in Charge.—The evidence clearly shows that prosecutrix and deceased Ninjana put into the same pit some grain; that prosecutrix put fifty-two pylees; that deceased, when he went away, gave the prisoner No. 2 a mortgage (by word of mouth) on the grain in this pit; no mention was made of the grain of the prosecutrix. Ninjana died, and prisoner Busapa went to take the grain; prosecutrix interfered, and the prisoner was ordered by the Patel to leave untouched the share of prosecutrix, but, on the contrary, he took the whole and disposed of it.

Prisoner No. 2 (Busapa) is found guilty of fraud, as set forth in the charge, and sentenced, under Regulation XIV. of 1827, Section XL. to pay a fine of twenty (20) rupees, of which ten (10) rupees is to be paid to prosecutrix as compensation, and ten (10) rupees to be a fine credited to Government.

Prisoner No. 1, not having actively interfered, is acquitted and discharged.

Prisoner No. 2 says he will pay the fine in his own village; he is therefore returned to the District Police Officer under custody.

A. W. Jones,
Session Judge.

Review by the Sessions Court on Appeal.—In this case Jakowa and Busapa are charged with fraud; Busapa in having himself removed, and Jakowa in having ordered him to remove, some grain, the property of prosecutrix, from a pit which belonged to the husband of Jakowa.

It appears that Nursapa, the husband of prisoner No. 1 (Jakowa), allowed the prosecutrix to put some grain in

a pit belonging to him in which he had some of his own, and that she did so is deposed to by several witnesses.

But it is also shown that Busapa (prisoner No. 2) had stood security for Nursapa, and had been told by him to take the grain in this pit to secure himself; and that no mention of the prosecutrix's grain was made by him at the time he gave these instructions. On the death of Nursapa, therefore, Busapa (prisoner No. 2), with the permission of prisoner No. 1, removed this grain.

Now it is not shown that prisoner No. 2 had any knowledge of this claim by the prosecutrix except from himself; and as that was only made just as he was going to remove the grain, and it does not appear it was supported by prisoner No. 1, who, as the wife of the deceased, ought to have been acquainted with his affairs, the Session Judge does not think the prisoner No. 2 has been proved to be guilty of fraud in what he did. When he was told by the Police Patel to leave the grain claimed by the prosecutrix, he says he answered that she must settle her claim with the owner, Jakowa. No doubt, by removing the grain after this warning, he laid himself open to a civil action. But the Session Judge cannot see that he made himself liable thereby to a criminal prosecution for fraud, and is therefore of opinion that the conviction should be annulled, and the fine repaid to the prisoner Busapa.

The Session Judge will forward an extract from his proceedings in this case for any remarks the Magistrate may have to offer.

Return by the Magistrate to the Precept of the Session Judge.—I have the honour to return the papers and proceedings in the case of Busapa bin Lingapa, received with your letter of the 25th ultimo, No. 2415.

It appears to me that, by disregarding the injunction of the prosecutrix and the Police Patel not to remove the grain until the claims of the former had been satisfied,

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the prisoner Busapa rendered himself amenable to Section XL. Regulation XIV. of 1827.

It is true that the prosecutrix might have recovered the value of her grain by the tedious and expensive process of a civil action, but in that case the prisoner would have incurred no penalty for having forcibly possessed himself of and appropriated another person's property.

Continuation of the Review by the Sessions Court.—The Session Judge resolves to refer the matter for the decision of the Sudder Foujdaree Adawlut, for which purpose the whole proceedings to be submitted to them.

Resolution of the Sudder Foujdaree Adawlut.—The Court concur with the Session Judge in considering that the prisoner has been wrongly convicted of fraud; and the sentence is annulled, and the fine to be returned.

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POONA.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 24 of the Criminal Return of the Magistrate of Poona for October 1856. Tried by the Assistant Magistrate, W. M. COGNLAN, on the 10th October 1856. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Breach of Hindoo
Religious Law.

Prisoners.—No. 1, Andoo bin Govindrow, Koonbee, aged 50.
2, Anundrow Yeshwunt, Prubhoo, aged 70.
3, Raghoo bin Govindrow, Malee, aged 30.
4, Baloo bin Jozojee, Koonbee, aged 50.

Charge.—Breach of Hindoo, religious law (Regulation XIV. Section I. Clause 1st, paragraph 7, of 1827); in that, on the 25th day of September 1856, (Mitee

Bhadrapud Wud 12th, Shuké 1778,) about 5 o'clock in the evening, when engaged in repairing the house of one Pursharam Sakaram, in Boódwar Street, in the City of Poona, they found concealed in a wall the sum of Rs. 186 (Sicca), and did not give information thereof to the proper Authority, but did appropriate to themselves the aforesaid sum of Rs. 187, in the following proportions, viz. :—

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Prisoner No. 1, Andoo.....	Rs. 57
„ 2, Anundrow.....	53
„ 3, Raghoo.....	50
„ 4, Baloo.....	27

Rs. 187

Prisoners plead not guilty.

Finding and Sentence by the Assistant Magistrate.—The Assistant Magistrate finds all the prisoners guilty of the crime as set forth in the indictment. Prisoner No. 2 was appointed to superintend the repairs of the house with the view of preventing any fraud; his case seems therefore more aggravated than that of the other three prisoners.

W. M. Coghlan,
Assistant Magistrate.

Sentence.—Prisoner No. 1 to pay a fine of twenty (20) rupees, or to be imprisoned for one (1) month with hard labour.

Prisoner No. 2 to pay a fine of thirty (30) rupees, or to be imprisoned for two (2) months without hard labour.

Prisoner No. 3 to pay a fine of twenty (20) rupees, or to be imprisoned for one (1) month with hard labour.

Prisoner No. 4 to pay a fine of fifteen (15) rupees, or to be imprisoned for twenty (20) days with hard labour.

The money is held in deposit until it is decided to whom it belongs.

Resolution of the Sudder Foujdaree Adawlut.—The Court find that the Assistant Magistrate has omitted to follow the course prescribed by Section IX. Regulation

VIII. of 1831, Clause 2nd, and that there is no authority on record for the sentence, which is accordingly annulled, and the fines are to be restored if paid.

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COLABA.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Seewajee Kassinath to the Sudder Foujdaree Adawlut.
Referred for Report to the Joint Magistrate of Colaba, L. REID,
on the 26th. November 1856.]

Forfeiture of Re-
cognisance Bond.

L. Reid, Joint
Magistrate.

*Decision by the Joint Magistrate on the 12th November 1856 (A).—*Seewajee Kassinath, Joshee, aged 34, caste Brahmin, profession mendicancy, inhabitant of Nagotna, is brought up and informed that whereas he, under date 11th December 1855, entered into his recognisance in the sum of Rs. 200, commutable, in default of payment, to one year's imprisonment, before the Joint Magistrate of Colaba, to be in attendance until such time as he may be required to prosecute the Mahalkuree of Peta Nagotna for misconduct, regarding which he had preferred charges in his petition dated 7th December 1855, still he failed to appear from the 19th December 1855 to 30th January 1856, and from 4th February to 9th March 1856, during which time his presence was required in the Joint Magistrate's Court to prosecute as above set forth, in consequence of which the recognisance entered into by him has become forfeited.

Pleads not guilty.

* * *

The defendant being present this day, declines to make any other defence; and the Joint Magistrate accordingly proceeds to record his finding in the present case; the other case, pending which this was adjourned, having been this day investigated and disposed of.

The circumstances out of which this case arose are as follows :—

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The defendant, Seewajee Kassinath, having preferred a complaint of gross misconduct in two instances against the Police Amuldar of Peta Nagotna, in a petition dated 7th December 1855, which was received through the post on the day following, the Joint Magistrate, being then at Nagotna, bound him over (on the 11th) in his recognisance in the sum of Rs. 200, in default one year's imprisonment, to prosecute the charge. The defendant made his appearance for five or six days, as long as the Joint Magistrate was at Nagotna. His case could not have been immediately taken up, as the Joint Magistrate was engaged, during his stay, in preparing two cases of murder and conspiracy, which were committed to the Sessions.

From the 19th December 1855 to the 30th January 1856 he failed to appear.

In the mean time the Joint Magistrate revisited Nagotna (8th January 1856), and the defendant was informed by his order, through the Chitness, that he should attend the Joint Magistrate's camp at Mhar, in the Ryghur Talooka, where the office was proceeding that same day.

The defendant made his appearance on or about the 30th, and, being informed he had forfeited his recognisance, and of the penalty, was seriously warned not to be absent without permission in future. His papers had been received and were being investigated, and a decision would be given in a day or two. If his case was not decided so early as he wished, he had only himself to blame.

Instead of remaining, however, he sends a petition, dated 4th February, through the post, on the 5th, although living in the same place as the Joint Magistrate, and not a quarter of a mile distant from his camp, in

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which he declared he had hurt his leg by the upsetting of the cart on the road from Beerwaree to Mhar, and begged to be allowed to go home.

The Mamlutdar was directed to go and see if he were really hurt, but he reported on the 6th that he had already, without waiting for a reply, gone away on a 'tattoo' to Nagotna. The neighbour with whom he was residing declared there was nothing serious, if anything, the matter with him. He had tied a rag round his leg and applied some Native medicine ('bibwa'), but walked and moved about the house like any other person.

Upon this (7th February) an order was issued to the Police Amuldar of Nagotna to forward him if he were able to come to Rohe or Cheol, whither the Joint Magistrate's camp was proceeding. The former place is only six miles from Nagotna, the latter eighteen, but the extra miles from Rohe to Cheol can be travelled without fatigue, as the ferry-boat runs daily to and fro twice a day between these places.

The Police Amuldar reported that he said he was sick; he had been to see him and fancied he was shamming, &c. He had promised, however, to attend in eight days, and had given a written statement to that effect.

The Police Amuldar's report was dated 9th February, and received on the 14th.

The eight days having expired, the Joint Magistrate again wrote on the 16th February to the Police Amuldar to forward him by the 23rd, giving him thus ample time to join.

On the 22nd February the Police Amuldar reported that the defendant refused to go, as he was sick and suffering from diarrhoea. He forwarded his statement to that effect, and at the same time stated his own opinion that the defendant was only shamming.

This report was received on the 28th, and as the Joint

Magistrate's camp was about to proceed in two or three days to Rohe, within six miles of Nagotna, a summons was issued on the 3rd, which was served on the defendant the following day (4th March).

The Police Amuldar reported his conduct on receipt of the summons to have been most insolent. He refused flatly to leave the village for two days; begged they would use force, and replied on the back of the summons that he had been to Rohe and Alibaugh in search of the Joint Magistrate's camp, and having only returned that day, was too tired to come. He gave a statement also before the Police Amuldar to the same effect, which he however qualified at the close by saying he would attend of his own accord on the 6th.

This report was received on the 5th at Rohe, and a reply issued the same day, that as the defendant had consented to come of his own accord on the 6th, the Joint Magistrate would wait for him that day, but in case he should not set out, he was to be apprehended on the 7th on the warrant transmitted for that purpose and forwarded in the usual manner.

On the 10th the defendant was received in charge of a Sepoy, having refused to set out, though made aware of the order issued.

His statement was then taken, in which he declared he had been too sick from diarrhoea to attend to the summons of the 3rd, received on the 4th March, that he, on the 29th February, had gone to Alibaugh, when he heard the Joint Magistrate's camp was at Rohe, and returned to his own house at Nagotna on the 4th. He stated in detail where he had passed the different days and nights, &c.

Upon a consideration of these circumstances, the Joint Magistrate could not doubt that the defendant had wilfully and deliberately acted in opposition to his order, and had thereby most richly deserved the penalty of the

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forfeiture of his recognisance. The Joint Magistrate did not think it necessary to inquire into the truth or otherwise of his statement regarding his journey to Alibaugh, as it appeared from his own showing that he was aware of the Joint Magistrate having passed through Alibaugh on the 2nd March to Rohe by Rewadunda; that he (defendant) was himself at Rewadunda on the 2nd and 3rd, and yet, being aware of the office being at Rohe, and within an easy and unfatiguing journey by ferry-boat, he sets off a distance of twenty-four miles over a vile road to his own house, while he is at the same time afflicted with such diarrhoea that he cannot walk.

Throughout he had been treated with a forbearance which has been utterly thrown away upon him. The penalty of forfeiture might easily have been enforced on his first non-appearance. In the second instance he slinks away after a personal warning, and under a false pretence. In the third instance he shammed sick, since falsified his word, and did not even keep the time which he had himself selected for his appearance, and which was twice allowed him.

The Joint Magistrate accordingly informed him that his recognisance was forfeited, but that he would not proceed to pass sentence and enforce the penalty until the investigation of the different cases in which he was concerned had been completed. His absence in jail, as he could not pay the fine, would have been at that time a serious inconvenience.

The defendant was therefore set at large, to be remanded when necessary, and security in place of the recognisances taken from him in the sum of Rs. 200, or in default one year's imprisonment, which he gave in respect to the other cases in which he was concerned.

Such was the decision the Joint Magistrate passed in the first instance, and the other cases having been now disposed of, pending which the forfeiture has been held

in abeyance, the Joint Magistrate has now called upon the defendant to show cause why the forfeiture should not stand good, and the full penalty be exacted.

The defendant has pleaded nothing in his defence but sickness, a practice so much in vogue on these occasions as to have passed into a joke; and as his conduct since has not only been similar, but a decided aggravation of his conduct then, the Joint Magistrate informs him that his recognisance is forfeited, and he is called upon to pay a sum of Rs. 200, according to its terms, or, in default, will be imprisoned for the space of one year. (Regulation XII. of 1827, Section XXVI. Clause 2nd.)

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* * * * *

Defendant being unable to pay the fine, is transmitted under the usual warrant to the Judge at Tanna.

Decision by the Joint Magistrate on the 13th November 1856. (B).—Seewajee Kassinath, Joshee, aged 34, caste Brahmin, profession mendicancy, inhabitant of Nalgotna, is brought up and informed that whereas he, under date 13th September 1856, entered into his recognisances in the sum of Rs. 500, commutable, in default of payment, to one year's imprisonment, before the Joint Magistrate of Colaba, to be in attendance until such time as he might be required to appear before the Joint Magistrate, to prosecute a criminal charge preferred by him against one Mahdowrow Rowjee and two others, in a petition dated 5th August 1855; still he was not present on the 31st October 1856, the day on which his presence was required in the Joint Magistrate's Court, to prosecute as above set forth, in consequence of which the recognisance entered into by him has become forfeited.

Pleads not guilty.

* * * * *

The proceedings are here closed, and the Joint Magistrate informs the defendant that his recognisance is forfeited; that he does not believe the truth of his plea of

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sickness, and, even if he had believed it, would not hold it as any excuse in the present instance. The sickness could scarcely have been so very serious as to admit of his attendance the next day, and nothing could have been easier for him than to acquaint the Mahalkuree of the Peta in which he was residing, who would have reported it. His security, Moro Ramchundra, had besides stated (in the case in which he had been proceeded against for the defendant's non-appearance in the present instance) that he had taken the pains to go to his house and set him off on his journey, and that there was then nothing the matter with him. In the course of a year's acquaintance with him the Joint Magistrate had learnt to know how much dependence was to be placed on his statements of whatever description. He had been allowed to go home as a matter of kindness for the Dewalee, while the office was closed, with the other parties in the case, and, to prevent all possibility of misconception, had been required to sign, and did sign a paper, intimating his perfect knowledge that he would be required to be back on a certain day. The other parties, all residents of the same village, had appeared at the appointed time, and he alone remained behind, rather, it would seem, with the motive that he was not to be bound by any rules but his own pleasure. Even were the plea of sickness true, which the Joint Magistrate conscientiously believed to be a sham and a pretence, it could only serve in extenuation before the Authority to which the ultimate cognisance of the case belonged, if it chose to entertain it. The Joint Magistrate had not the power, any more than he had the inclination, to mitigate or remit the penalty attaching to the forfeiture of his recognisance, and the defendant must accordingly pay the sum of Rs. 500, according to the terms of his bond, or, in default, be imprisoned for the space of one year.

* * * * *

Defendant being unable to pay, is transmitted to the Judge under the usual warrant, and having been already sentenced to one year's imprisonment in a prior and similar case, it is directed that he be returned fifteen days before the expiration of the first term of imprisonment in order that the sanction of the Sudder Foujdaree Adawlut may be obtained for his detention for the second year.

Petition of Seewajee Kassinath to the Sudder Foujdaree Adawlut.—[Praying that the order of the Joint Magistrate of Colaba, imposing upon him a fine of Rs. 700, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—[Calling for a report.]

Return by the Joint Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept, the Joint Magistrate has the honour to make the following report on the petition of Seewajee Kassinath received therewith.

The petitioner appeals (or must be supposed to appeal, as his petition bears very little relation to, and, in some points, wilfully misrepresents the facts of his case) against the decision of the Joint Magistrate enforcing the penalty of the forfeiture of his recognisances in two instances of non-appearance, for the sum of Rs. 200 and Rs. 500 respectively, commutable, in each case, to one year's imprisonment.

The circumstances under which these forfeitures were imposed have been fully detailed in the separate judgments recorded in each case, and the Joint Magistrate accordingly begs to forward the papers and proceedings connected with them, although not called for in the Precept. This course will save delay in case they should be required for reference, and they will serve also to explain the report.

The petitioner is a resident of Kusba Nagotna, which

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is the station of a Mahalkuree. Nagotna has long enjoyed an unenviable notoriety for the litigious and unscrupulous character of its inhabitants, who are divided into factions and cliques, perpetually at variance and strife with each other, and who seem to consider our Civil and Criminal Courts as especially intended for the purpose of gratifying private malice and revenge.

The chief faction is that of Brahmin *versus* Purbhoo, into one or other of which all minor distinctions merge.

The petitioner is a Brahmin, one of those mischievous plagues of society, a lazy fat beggar, with sufficient education to enable him to live on the fears of the community by taking advantage of the readiness with which all complaints, no matter of what description, are listened to in our Courts. He gains a prosperous livelihood by slander and detraction. The then Mahalkuree being a Purbhoo, even if immaculate, was not likely to have escaped his notice long.

Accordingly, about a year after the Mahalkuree's entering on office, the petitioner presented charges of bribery and corruption against him to the Magistrate of Tanna. He thus states in the first paragraph of his petition to the Court the result of this representation :—

“ I complained against the Mahalkuree in May 1855 to the Magistrate of Tanna for misconduct. Although the Joint Magistrate was ordered to institute immediate inquiries, no investigation took place till after a year had elapsed. In this interval I petitioned several times that the case might be commenced, but without success.”

This statement is simply untrue. He petitioned the Magistrate of Tanna against the Pölice Amuldar on 8th June 1855 (not May as alleged). The petition was forwarded to the Joint Magistrate for disposal, and a summons was issued on the 15th June 1855 to the petitioner to attend, which he did a few days after. The Joint Magistrate, however, having been directed to assume charge

of the Tanna Office in the absence of the Collector on three months' leave, transferred the inquiry on the 26th June 1855 to the District Deputy Magistrate of Colaba (who resided at Nagotna during the rains), before whom the petitioner stated that *in consequence of his having been summoned*, he believed the parties he had warned would not afford him any assistance, and he could not therefore prove the allegations he had made. No representations whatever were made in the interval or afterwards by the petitioner that the case might be proceeded with. On the contrary, he forwarded a petition to the Magistrate of Tanna by post, dated 17th August 1855, in which he expressly declared his inability to prove his charges, and begged the case might be dropped.

This subject has no connection whatever with the cases in which the petitioner was subsequently fined for non-attendance.

It serves, however, to show his character for veracity, and is also evidence of his habitual practice of disregarding orders and refusing to attend to prove his allegations, as in this very case the Deputy Magistrate had very great difficulty in getting him to appear, though living in the same village; and it was only on issuing a summons, after repeated messages had failed, which he met with replies that he was sick or relation had died, &c., that his statement declining to prosecute was taken on the 28th November 1855; an interval of five months instead of a year (as alleged) since he made his petition.

It was a few days after this that, on the 7th December 1855, he again accused the Mahalkuree of corrupt practices, and partiality towards some Purbhoos, whom he had charged with robbery, &c. In his second paragraph he has given an outline of the two cases in which he was complainant and the other defendant, which have both been since tried by the Joint Magistrate and dismissed; but he has made no allusion to the case pending before

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the Joint Magistrate in respect to his charges against the Mahulkuree of the 7th December 1855, in which he was absent for a space of nearly three months, and for which his first recognisance of Rs. 200 was forfeited in March 1856. The particulars of the case in detail will be found in the proceedings marked (A), and do not require further notice here.

In his third paragraph the petitioner goes on to state :—
“ In May 1856 the Joint Magistrate commenced the investigation and summoned the witnesses. The case was not commenced for two months, owing to the absence of several parties ; during this time I was in attendance, and received no battā. My recognisance was taken for my appearance. I was, however, permitted to go home, but was again present in September 1856.”

This has reference to a fresh investigation of other cases. Since the petitioner's last appearance in March 1856 other cases had been received from the Peta, petitions and counterpetitions had so accumulated as to have become a serious nuisance, and there appeared altogether to be so much rascality and villany going on, that the Joint Magistrate determined, during the comparative leisure season of the rains, to make a clean sweep of the whole set if possible, and accordingly commenced his labours with seven probable cases in hand—four of robbery, one of conspiracy, two of forgery—and seven or eight of perjury and subornation of perjury arising therefrom. Summonses were issued in the name of forty or forty-one persons implicated. Amongst the first batch of about twenty-five that arrived the petitioner came, on the 21st May. In the first case that was set down for investigation, of robbery, with which were connected the two cases of forgery and perjury, &c. the petitioner was not implicated. The cases in which he was implicated, as he himself states, were not brought on, “ owing to the absence of several parties.”

The proceedings in the first case were carried on to the 25th June, on which date, there appearing no chance of deciding it within a reasonable time from the number of witnesses paraded by either party, the Joint Magistrate, taking into consideration the want of proper accommodation at his camp and the setting in of the rains, dismissed all except those who were concerned in this one case.

Among those who left was the petitioner, whose stay therefore was limited to one month and four days (not two months as alleged). During this time he was, as well as others, most irregular in his attendance, seldom being present before three in the afternoon, when other business was in hand and could not be laid aside. A muster roll, kept from the 11th June, shows that the petitioner was present only six days, in this irregular manner, out of fifteen, up to the 25th.

His recognisance had been taken in the sum of Rs. 100, or six months' imprisonment in default, but the Joint Magistrate did not see any reason to enforce it, nor to give him batta, and the other parties were similarly treated.

On the 11th July, the Joint Magistrate's office proceeded to Tanna, and the further investigation of these cases was postponed, in consequence of the rains and the long distance to be travelled, till September, when summonses were again issued to the parties concerned in two cases of robbery, in one of which the petitioner was complainant and in the other defendant.

The petitioner appeared on the 12th September, and his recognisance taken in the sum of Rs. 500, or, in default, one year's imprisonment, for his appearance to prosecute, and the investigation commenced.

From the 12th September till he was placed on his trial as defendant on the 22nd October, he received the regulated batta of two annas per diem. On the 23rd

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October he was called upon to furnish security as defendant on trial, and his security was Moro Ramchunder Deshpandé, in the sum of Rs. 200, or, in default, one year's imprisonment.

The investigation, which commenced on the 13th September, of the case in which he was complainant, resulted in the parties accused being placed on their trial on the 15th October. On the 25th October the case was adjourned for some witnesses called by the prisoners, and the 26th to 30th being the Dewalee holidays, the Joint Magistrate acceded to the request of the petitioner and others to be allowed to go to Nagotna, and return on the 31st October within office hours. To prevent any misconception a written order was made out, which the petitioner and others signed to that effect, and his surety, Moro Ramchunder, who saw him sign, was especially cautioned to look after him.

On the 31st October all other parties were present except the petitioner, and his arrival being awaited till six the same evening, without his presenting himself, the case in which he was complainant was taken up, and dismissed for want of proof. The other case in which he was on his trial was necessarily adjourned. Two witnesses for the prosecution who had been summoned for that day were present.

Next day the defendant appeared, and on the conclusion of the case against him, which was dismissed, he was tried for the forfeiture of his recognisances, first, for his non-attendance in the matter of the charges of malversation against the Mahalkurée as already stated, and secondly, for being absent as prosecutor in the one case; and his security, Moro Ramchunder, was also mulcted in the full penalty of his bond for the petitioner's absence that same day as defendant in the other case.

The various circumstances which have induced the Joint Magistrate not to overlook these several infractions

of the law, involving as they do a severe punishment for an apparently light offence, have been so fully detailed in the proceedings in these cases, that they need not be here recapitulated. It is sufficient to say that all the cases which he has investigated, and which have employed time which has been most unprofitably wasted, scarcely had any foundation in fact. It was well nigh impossible to have arrived at any conclusion through the mass of falsehood and fraud with which they were so largely mingled, except as to the utter worthlessness of the testimony by which the charges were supported, and the unqualified rascality of all parties concerned.

Such persons as the petitioner are a positive nuisance, and should be treated as such. There are two or three to be found in every Talooka, whose powers of working mischief are only limited by the character of the controlling Authority. In the present instance the incapacity of the Mahalkuree, not to use a worse term, no doubt led matters to a length they would never have reached under the most ordinary supervision of any official acting with honest intentions.

The Joint Magistrate need only add, in conclusion, that the petitioner has ended, as he commenced, his petition with a palpable untruth. He states he was fined Rs. 700 for *one* instance of non-appearance, when he could not be ignorant that he was tried on two separate charges, as his replies to each are in his own handwriting.

The return to this Precept has been delayed five days in order that it might accompany the return to the Court's Precept No. 1114, dated 3rd December, relating to the same case and due this day.

The petition is herewith returned.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—The penalty levied here seems excessive, and the Joint Magistrate appears to consider it a legitimate way of punishing groundless accusers to mulct them in this

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R. Keays, Acting
Puisne Judge.

way ; whereas he should resort to the course the law prescribes, and punish perjury and conspiracy as such, not by demanding excessive security, and declaring forfeitures, as in this case.

Minute by Mr. Keays.—Looking merely at the very great delay which has occurred in the disposal of the petitioner's charges against the Mahalkuree, I am willing to reduce the fine to Rs. 100, but I concur with Mr. Reid that the petitioner's bonds are fairly forfeited, and I am not disposed to reduce the penalty further.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that under all the circumstances of this case, the long period over which the inquiry extended, and the frequent adjournments, the penalties levied for the petitioner's non-attendance on one day are excessive, and resolve to reduce the same from Rs. 700 to Rs. 100.

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COLABA.

Forfeiture of Se-
curity Bond.

L. Reid, Joint
Magistrate.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Moro Ramchunder to the Sudder Foujdaree Adawlut.
Proceedings and Report certified by the Joint Magistrate of Colaba,
L. REID, on the petition of the prisoner.]

Decision by the Joint Magistrate.—Moro Ramchunder Deshpandé, Koolkurnee, aged 62, caste Purbhoo, Kar-koon, inhabitant of Nagotna, is brought up and informed that whereas he, under date 23rd October 1856, entered into a security bond that Seewajee Kassinath, Joshee, Brahmin, should remain in attendance before the Joint Magistrate until such time as he may be required to appear to stand his trial on a criminal charge preferred against him by one Mahdowrow Rowjee, or that he would forfeit the sum of Rs. 200, to be commuted, in case of nonpayment, into imprisonment for one year ; still the said Seewajee Kassinath was not present on the

31st October 1856, the day on which his presence was required in the Joint Magistrate's Court to stand his trial as above set forth, in consequence of which the security entered into by him (Moro Ramchunder) has become forfeited.

Pleads guilty.

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* * * * *

Read and recorded the statement of the defendant, in which he admits the validity of the security bond shown to him, and also that Seewajee Kassinath was not present when his presence was required. He pleads, however, in extenuation, that very early on the morning of the 31st October 1856 he had gone to Seewajee's house, and, telling him the other parties in the case had already started, warned him to join them, and actually set him off on his journey. Seewajee was not in the least sick at the time, and could easily have been present before the Joint Magistrate by 10 or 11 o'clock that same day. He was prevented attending him, which he would otherwise most assuredly have done, by the dangerous illness of his daughter-in-law, and he heard next day of Seewajee having failed in his attendance.

The proceedings are here closed, and the Joint Magistrate informs the defendant that his bond is forfeited; that while willing to admit to a certain extent his plea in extenuation, yet he is precluded under the Regulations from entertaining any such plea, and the defendant must accordingly pay the full penalty of Rs. 200, or, in default, be imprisoned for one year. (Regulation XII. of 1827, Section XXVI. Clause 2nd.)

The defendant could appeal to the Joint Magistrate for a remission of the sentence, who would submit his case for the favourable consideration of the Judges, or he could petition the Sudder Foujdaree Adawlut direct, who would pass such orders as they thought fit.

* * * * *

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The defendant, having paid the fine, is discharged.

Petition of Moro Ramchunder to the Sudder Foujdaree Adawlut.—[Praying that a fine imposed upon him without any cause might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—[Calling for proceedings and report.]

Return by the Joint Magistrate.—In returning this Precept within the required time, the Joint Magistrate has the honour to certify the papers and proceedings in English and Murathee, and to report that the present case has arisen out of the proceedings held in the case of Seewajee Kasinath, Joshee, which have been this day submitted to the Court under their Precept No. 1084, of 26th November 1856. It does not appear therefore necessary to enter into any further detailed statement. Under the circumstances stated by the petitioner at his trial, the Joint Magistrate would have recommended his case for the favourable consideration of the Judges, in order that a moiety of the fine might, if they had seen fit, be remitted, but the substance of the petition made by the defendant to the Court is such a contradiction to his statement at his trial, and the variance of facts so absolute, that the Joint Magistrate cannot but consider the statement now given to have been made up for the occasion, and that he is not therefore entitled to any indulgence.

Resolution of the Sudder Foujdaree Adawlut.—The Court reduce the forfeit to Rs. 25.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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BROACH.

Case No. 13 of the Criminal Return of the Magistrate of Broach for September 1856. Tried by the Deputy Magistrate, NOWROJEE BYRAMJEE, on the 18th and 24th September 1856. Confirmed by the Magistrate, G. INVERARITY, on the 25th September 1856. Proceedings and Report certified on the petitions of the prisoners, excepting prisoner No. 6, Petamber Kursun.]

Prisoners.—No. 1, Motee Nursey, Bhatia, aged 31.

2, Bechur Runchor, Ghanchee, aged 19.

3, Jumnadas Mita, Goldsmith, aged 22.

4, Hurgovun Mita, Goldsmith, aged 17.

5, Ghella Hureewulub, Bania, aged 27.

6, Petamber Kursun, Bharbhoojee, aged 20.

Gang Robbery, without Force, by Day ; and Receiving Stolen Property, knowing or having evident grounds for believing it to be such.

Charge.—Gang robbery, without force, by day ; in that, on the 11th September 1856, (corresponding with Sumvut 1912, Bhadrupud Shood 12th,) they, in the town of Broach, opened the padlocks of the door of the house of complainant (Wuzeerbux *alias* Nundkoor), and of her box, from which they stole and took away property to the estimated value of Rs. 214-4-0, Rs. 44 in cash, Rs. 140 worth of silk and cotton clothes, Rs. 8 worth of gold ornaments, Rs. 15 worth of copper vessels, and a rifle worth Rs. 5.

Prisoner No. 6 also charged with receiving stolen property, knowing, or having evident grounds for suspecting it to be such ; in that, in the town of Broach, on the 13th September 1856, (corresponding with Sumvut 1912, Bhadrupud Shood 14th,) he was found in possession of a chintz cloth worth half a rupee, and of a 'saree' border worth half a rupee, belonging to the said

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ing it to be such.

Nowrojee By-
ramjee, Deputy
Magistrate.

complainant (Wuzeerbux *alias* Nundkoor), and stolen from the said complainant's house on the abovementioned day, the prisoner having evident grounds for suspecting the same to be stolen, and omitting to give information thereof to the Police Authorities: (Regulation XIV. of 1827, Section XXXVII. Clause 2nd, and Section XLI. Clause 1st.)

Prisoners plead not guilty.

Finding and Sentence by the Deputy Magistrate.—

The only direct positive evidence adduced in behalf of the prosecution is that of the Subedar Bahadur and the Police Peons (witnesses Nos. 3, 4, 5, and 6), and of the Parsees and Bania (witnesses Nos. 7, 8, and 9), and relates to the fact of part of the property stolen from the house of the complainant, and belonging to her, being found concealed under the tombstones of a deserted Musjeed, in the neighbourhood of the houses of prisoners Nos. 1, 2, 5, and 6. There is no evidence to show that the prisoners committed the robbery or concealed the things found near their houses, except that adduced against prisoner No. 6, in whose house complainant's chintz and fringe were discovered concealed under a vessel and wrapped up in his own 'angrika,' which conclusively proves that if he was not actually concerned in the perpetration of the robbery, he received part of the stolen property knowingly. The prisoner himself, though he at first disowned the angrika, was obliged, in spite of himself, to acknowledge it was his when an exact copy of it was brought from his own house. The Deputy Magistrate has therefore convicted him of the second charge set forth in the indictment, and sentenced him to three (3) months' imprisonment with hard labour.

As regards prisoners Nos. 1, 2, 3, 4, and 5, though there is no positive proof sufficient to justify their being convicted of the offence laid to their charge, yet the fact of the propinquity of the places of residence of three

out of the five to the spot where a portion of the property was found, and their neighbourhood to the complainant's house; the admitted friendship of the prisoners Nos. 3 and 4 with the others; their acknowledged want of any calling or employment; their admitted gambling habits; the criminatory accusations brought against each other, and against the rest, by prisoners Nos. 2 and 3, showing that most probably they both participated in the robbery; their failure to establish the *alibi* set up by them (their own witnesses condemning their characters); their notorious bad character, and the admitted convictions of two of them at least of similar offences (as evidenced by the copy of a warrant and extracts from the Foujdar's office record, Nos. 10 and 11); all these constitute such presumptive evidence against them as almost to amount to a positive proof. The only link that is wanting to complete the chain of circumstantial evidence against them is the admitted possibility of some persons other than the prisoners perpetrating the robbery and concealing the property in the place in which it was discovered, and which is accessible from all sides. But for this link, the prisoners Nos. 1 to 5 would have been legitimately found guilty of the crime charged upon them. As it is, they are one and all directed by the Deputy Magistrate to furnish a competent security each, in the penal sum of Rs. 200, for the space of a year, or, in default thereof, to be detained for that period, or until they give the securities required, in the Jail, the penalty of forfeiture of the same to be commutable to six months' imprisonment without labour. The property of the complainant to be returned to her, and the angrikas of prisoner No. 6 to be restored to him, and the keys found in complainant's house to be destroyed. (Regulation XII. of 1827, Sections XXV. to XXVII.)

The prisoners one and all, on being asked, state they

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G. Inverarity,
Magistrate.

are unable to furnish the sureties required; they are therefore ordered to be detained in the Broach Jail for the period of one year, or until they can give the securities demanded. Subject to the confirmation of the Magistrate. (Regulation IV. of 1830, Section III.)

Remarks by the Magistrate.—Prisoner No. 1. stating that he formerly sold milk at Baroda, the Deputy Magistrate is requested to ascertain and report whether he is the subject of that State or not; if so, he should be expelled the Zillah. The same may be reported concerning the other prisoners, excepting No. 6.

The Guzerathee depositions taken before the Deputy Magistrate are not on solemn affirmation, an omission which must be avoided in future.

Additional Finding by the Deputy Magistrate.—Agreeably to the directions of the Magistrate, the prisoners Nos. 1 to 5 are called in and asked if they are the subjects of His Highness the Gaekwar or not; as also where they were born, and how long they have been in Broach. They one and all reply that they are not the subjects of the Gaekwar, and, with the exception of prisoner No. 5, who says that he has been in Broach the last ten years, and that he is a native of Surat, they all state that they were born in Broach, and have been living ever since in the same city.

With respect to the Magistrate's remark about the depositions taken before the Deputy Magistrate, that they are not on solemn affirmation, the Deputy Magistrate most respectfully states that such is not the case. The depositions were from the beginning taken on solemn affirmation before himself, and not before the Police Amuldar; the preliminary investigations in all cases handed up by the Foujdar being conducted by himself and not by the Police Amuldar, as is elsewhere the case, owing to the practice introduced ever since the Foudars were bereft of their judicial functions, and confined to

those of an executive character only—an anomalous state of things, which might, the Deputy Magistrate humbly suggests, be remedied by the delegation to the Police Amuldar of the preliminary investigations of every case, whether handed up by the Foujdar or by the Joint Police Amuldar, as is, he believes, the case everywhere except in Broach.

The omission noticed by the Magistrate applies, I see, to the depositions taken on subsequent dates, when the Karkoon has omitted to repeat the words “પ્રતિજ્ઞા કરી. વાંચી રાખવાની તે પછી છે” though repeated in English by the Deputy Magistrate himself.

Confirmation by the Magistrate.—Order for security confirmed.

Petitions of Bechur Runsord and two others to the Sudder Foujdaree Adawlut.—[Praying that the order of the Deputy Magistrate, requiring them to furnish security, might be annulled.]

Precept issued to the Magistrate by the Sudder Foujdaree Adawlut.—[Calling for a Report.]

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut No. 1057, dated 16th November 1856.—In reply to the above Precept the Magistrate of Broach has the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that the three petitioners were tried, along with two others, before the Deputy Magistrate, Mr. Nowrojee Byramjee, under date the 18th September last, on a charge of gang robbery by day, without force.

The proof brought forward against them was insufficient for conviction, but, as strong suspicion existed of their guilt, they were directed to find security for their good conduct, in the sum of Rs. 200 each, for the space of one year, or, in default, to be detained for that period, or until such intermediate period as they might find the security required, under surveillance in jail.

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ing it to be such.

Extract from the Deputy Magistrate's proceedings, directing the above course to be pursued, is annexed.

Under the circumstances therein exhibited, as well as of the petitioners being devoid of all calling and employment, admitted gamblers, and of notorious bad character, while it was on record that Bechur Runsord had, on the 9th May 1853, been convicted of robbery and sentenced to two months' solitary imprisonment in addition to thirty stripes, the Magistrate confirmed the order of his Deputy, under date the 23rd September, and, as petitioners were unable to find the security required, they were remanded into confinement accordingly.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate, No. 1125, dated 3rd December 1856.—The Magistrate is to be requested to certify the papers and proceedings held before the Deputy Magistrate.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—As requested in the within Precept, the papers and proceedings connected with the case are herewith forwarded, and the Precept is therefore returned, duly executed.

Petitions of Ghela Hureewulub and Motee Nursees to the Sudder Foujdaree Adawlut.—[Praying that the order of the Deputy Magistrate, requiring them to furnish security, might be annulled.]

Precept issued to the Magistrate.—The Magistrate is to be requested to report what instances of suspicion there are against petitioners.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the foregoing the Magistrate of Broach has the honour to refer to his report No. 1057,* of the 14th instant, on the petition of Bechur Runsord and two others, the present petitioners being the "two others" referred to in the first paragraph of that

* See preceding page.

report, and the decision arrived at in respect to them is detailed in the extract from the Deputy Magistrate's proceedings therewith forwarded.

The petitions in the vernacular are herewith returned.

Precept issued to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings held before the Deputy Magistrate.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—The papers and proceedings called for in the within Precept have this day been forwarded, in reply to the Sudder Adawlut's Precept No. 1125, dated 3rd instant, and this Precept is therefore returned duly executed.

Resolution of the Sudder Foujdaree Adawlut.—The Court reduce to Rs. 100 the security to be taken from each prisoner, or imprisonment as ordered by the Magistrate.

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Gang Robbery without Force, by Day; and Receiving Stolen Property, knowing or having evident grounds for believing it to be such.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 31 of the Calendar of the Khandeish Sessions Court for 1856. Committed by the Supernumerary First Assistant Magistrate, A. R. GRANT, on the 26th September 1856. Tried by the Session Judge, A. ST. J. RICHARDSON, on the 3rd and 4th October 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the Prisoners Nos. 1, 3, 6, and 7.]

KHANDEISH.

Prisoners.—No. 1, Purushram wulud Ramjee, Wunjaree, aged 35.

Gang Robbery by Night, with Force.

2, Hooba wulud Bhima, Wunjaree, aged 32.

3, Hurchund wulud Poora, Wunjaree, aged 32.

4, Luxumon wulud Ramjee, Wunjaree, aged 25.

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Prisoners.—No. 5, Shama wulud Bhima, Wunjaree, aged 22.

6, Jairam wulud Mahadoo, Wunjaree, aged 45.

7, Setul wulud Ramdas, Wunjaree, aged 22.

8, Kisun wulud Soma, Wunjaree, aged 25.

Charge.—Gang robbery by night, with force; in having, in company with several other persons unknown; armed with swords, spears, and sticks, on the night of Friday, the 25th July 1856, (corresponding with Ashad Wud 8th, Shuké 1778,) entered the house of one Luxumon wulud Chimna Patel, in the village of Nimghate, in the District of Jamnair, Province Khândeish, and wounded with spears, &c. the said Luxumon wulud Chimna and two female members of his family, and forcibly carried off property belonging to him to the value of Rs. 87-6-0, and a turban and body-clothes to the value of Rs. 2-11-0, the property of Sooriabhan wulud Maljee; thereby rendering themselves amenable to Section XXXVI. Clauses 1st and 3rd, Regulation XIV. of 1827.

Prisoners plead not guilty.

A. St.J. Richardson, Session Judge.

Finding and Sentence by the Sessions Court.—The Court has to consider whether the evidence which affirms the identity of the persons with those seen by the complainant Luxumon wulud Chimna, the Police Patel of Nimghate, on the occasion of a gang robbery supposed to have occurred on the night of 25th July 1856, is such as should be considered valid to convict them or not.

The evidence throughout affirms the early part of the night of Friday the 25th July as the time of the robbery. Luxumon wulud Chimna asserts that ten or twelve men, with spears and torches and sticks, appeared at his house; and in his deposition before the Police Officer on the

27th July, though Purushram (prisoner No. 1), Hurchund (prisoner No. 3), Setul (prisoner No. 7), and Kisun (prisoner No. 8), had been arrested on the 26th and others on the 27th, within six miles from his house, where he lay wounded, he was not confronted with them. He did then state that if he saw them he would be able to identify the robbers, who were from among the Wanjarees of Furdepoor; when all the prisoners in Court had been arrested either on the 26th or 27th July 1856, and therefore were all in custody, it is presumed, by the time his evidence was taken, and might, but for this oversight of the Police, have been presented before him, for him to identify his assailants. He now states before the Court, varying from his first deposition, that Purushram (prisoner No. 1) came first to his house, and then all the other robbers rushed at him, and he was wounded by prisoner No. 3 (Hurchund) with a spear in the breast, and was dragged outside his house by prisoners Nos. 3 and 4 (Hurchund and Luxumon). He deposes to the identity of these and to that of prisoner No. 1 (Purushram), who had a sword, and who had sold him some wheat some days before, and adds that prisoner No. 6 (Jairam), a very tall man, had a torch. Thus then he identifies prisoners Nos. 1, 3, 4, and 6 (Purushram, Hurchund, Luxumon, and Jairam), as among those who entered and robbed his house on 25th July, and the Court is bound to observe that his evidence and his manner under much cross-questioning are worthy of all credit.

There is but one other eye-witness to the attack, the witness Sita, whose evidence is entered No. 5, the sister of the complainant, and whose deposition was first made before the District Police Officer on 29th August, more than a month after the offence had been committed. She, before the Sessions Court, identified prisoners Nos. 1 and 3 (Purushram and Hurchund), and Nos. 5 and 6 (Shama

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and Jairam), as among those who entered the house, and in her original deposition she pointed out Purushram (prisoner No. 1) as having come to sell grain to her brother, and also having been present at the robbery; prisoner No. 3 (Hurchund), as having been present; prisoner No. 5 (or in the Police Calendar No. 6), Shama wulud Bhima, and No. 6 (in the Police Calendar No. 7), Jairam wulud Mahadoo, as carrying a torch at the robbery; and before the Police she added prisoner No. 9 in the Police Calendar (Kisun), in the Sessions Court called No. 8, as clearly recognised by her, but did not depose to his identity before the Sessions Court. She deposes to the whole body of men having made a simultaneous rush, and that she received a wound near the eye and fell senseless. A youth named Sooriabhan, whose evidence is entered No. 3, deposes to having been woke by several men with torches and weapons, for, among whom, prisoner No. 1 (Purushram), had a sword, as is affirmed by the evidence in Nos. 2 and 5, and he removed an ornament and clothes from this deponent's person. This youth, who acknowledges he (through the effects of fear) covered himself with a rug and remained quiet till the thieves departed, also names prisoner No. 7 (Setul) as present with a torch. From the numbering of the prisoners in the Police Calendar, the men he names as carrying the torch may be Jairam (prisoner No. 6), who was there numbered as No. 7; so that, even allowing his evidence to be at fault, the identity of Purushram wulud Ramjee is affirmed by three eye-witnesses to the attack, that of prisoner No. 3 (Hurchund) by two witnesses, that of Jairam (prisoner No. 6) by two, while there is but one of the sufferers, each of whom was wounded, who can swear to the distinct identity of prisoners Nos. 4 and 5 (Luximon and Shama), and only one, this youth Sooriabhan, to that of No. 7 (Setul). The Court would not convict on the unsupported evidence of a frightened and wounded woman,

not confronted with the prisoners till five weeks after her only interview, by night and by torch-light; but when the unmistakable testimony of the cool old Police Patel corroborates and receives confirmation from hers, their joint testimony the Court believes to be worthy of all credit. There were some peculiar expressions attributed to the prisoner No. 1 (Purushram), but they are not satisfactorily supported, nor does one of the witnesses affirm the identity of the speaker with that of the prisoner, except Luxumon Patel. A turban, said to have been found in the house of prisoner No. 7 (Setul) by the boy Sooria-bhan (witness No. 3) and the witness No. 4 (Ragho); as is affirmed also on evidence Nos. 7 and 8, but recognised as the property of the complainant by himself, and the evidence marked Nos. 3, 4, and 5, so that the Court is of opinion that prisoners No. 1 (Purushram wulud Ramjee), No. 3 (Hurchund wulud Poora), No. 6 (Jairam wulud Mahadoo), and No. 7 (Situl wulud Ramdas) are convicted, on the evidence entered Nos. 2, 3, 4, 5, 7, and 8, of gang robbery by night, with force, and wounding; in having, in company with several other persons unknown, armed with swords, spears, and sticks, on the night of Friday, the 25th July 1856, (corresponding with Ashad Wud 8th, Shuké 1778,) entered the house of one Luxumon wulud Chimna Patel, in the village of Nimghate, in the District of Jamnair, Province Khandeish, and wounded, with spears, &c. the said Luxumon wulud Chimna and two female members of his family, and forcibly carried off property belonging to him to the value of Rs. 87-6-0, and a turban and body-clothes to the value of Rs. 2-11-0, the property of Sooriabhan wulud Maljee; and the Court proceeds to pass the following sentence:—

You, Purushram wulud Ramjee (prisoner No. 1), Hurchund wulud Poora (prisoner No. 3), Jairam wulud Mahadoo (prisoner No. 6); and Setul wulud Ramdas (prisoner No. 7); having been convicted of gang robbery

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by night, with force and wounding, are to undergo five (5) years' imprisonment each, with hard labour, agreeably to the provisions of Section XXXVII. Clause 1st, Regulation XIV. of 1827.

* * * * *

You, Hooba wulud Bhima (prisoner No. 2), Luxumon wulud Ramjee (prisoner No. 4), Shama wulud Bhima (prisoner No. 5), and Kisun wulud Soma (prisoner No. 8), are discharged for want of proof.

The Court is unwilling to convict on the evidence of one witness only, and therefore directs Luxumon wulud Ramjee (prisoner No. 4) and Shama wulud Bhima (prisoner No. 5) to be discharged; and Hoola wulud Bhima (prisoner No. 2) and Kisun wulud Soma (prisoner No. 8), not being convicted by the evidence, are acquitted and discharged from custody.

* * * * *

The Court begs to draw the Magistrate's attention to the delay which appears to have occurred since the arrest of the prisoners on 26th and 27th July 1856, and their commitment to this Court on 3rd October 1856. It appears on the record that the District Police Officer, or an Authority empowered to take evidence on solemn affirmation, did attend on 27th July at the complainant's house, where it is presumed all the eye-witnesses of this atrocious offence were residing, and before whom the prisoners already in confinement might have been confronted, which proceeding would have added weight to the evidence of the woman Sita, and might have resulted in the conviction of more than those whom the evidence before the Sessions Court clearly identified. From that date till the 29th August 1856, when all the evidence recorded for the prosecution was taken, it appears the wounded persons were unable to attend at the Police Court, but the Court does not clearly comprehend the necessity for postponing the prisoners'

defence or statement until the 1st. and 2nd September, from which last date till the day of trial there appears no reasonable cause for delay; except such as the distance to be traversed by the witnesses absolutely required.

With regard to the able summary of the evidence taken before the Supernumerary First Assistant Magistrate, and his opinion as to the guilt of the prisoners committed by him, the Court requests the Magistrate will refer that gentleman to extracts from the proceedings of the Court of Sudder Foujdaree Adawlut dated 31st January 1855, and to page 207 of the printed Cases for March 1854, by which it will be evident that it would have been sufficient had he recorded an opinion restricted to the remark that the evidence justified the committal, &c.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—The conviction of these prisoners rests upon their recognition as the robbers by two witnesses, the complainant and his sister. But there would have been no difficulty in tracing the robbers at once had they really been recognised, whereas it does not appear that they were denounced at all until after their apprehension. The evidence is, in my opinion, too slight to warrant the conviction, and the prisoners must be acquitted and discharged.

Minute by Mr. Keays.—The evidence in this case consists of two complainants, whose depositions regarding facts do not in all respects correspond. One of these, Luxumon, whom the Session Judge designates “the cool old Patel,” did not mention the names of the prisoners, or allude to them as the perpetrators of the crime at first; the evidence of the second, a female, who, according to her own account, it is quite impossible could have been able to recognise any of the prisoners, was not taken until six weeks afterwards, when the story was all cut and dried. I am not disposed to uphold the conviction, and would acquit the prisoners and order their discharge.

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by Night, with
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W. H. Harrison,
Puisne Judge.

R. Keays, Puisne
Judge.

Resolution of the Sudder Foujdaree Adawlut.—The prisoners are acquitted and to be discharged.

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AHMEDABAD.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition of Bejising Sooltansing to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmedabad, J. W. HADOW, on the 4th June 1856.]

Denial of Justice.

Petition of Bejising Sooltansing to the Sudder Foujdaree Adawlut.—[Praying for redress; his former petition, praying for the restoration of his property, which was forcibly taken away by the Foujdar of Bhownuggur, having been rejected on the ground of non-attendance.]

Precept issued to the Magistrate.—[Requesting to certify papers and proceedings.]

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—The papers and proceedings called for in the within Precept are herewith certified to the Court of Sudder Foujdaree Adawlut. The petition is herewith returned.

Precept issued to the Magistrate.—It appears in this case that the petitioner, on the 28th June 1853, presented a petition to Mr. Walter, complaining of misconduct on the part of the Foujdar of Bhownuggur. Mr. Walter, apparently misunderstanding the complaint, treated it as a petition of course, and called on the Foujdar to report. The Foujdar did report, and the consequence was that doubts were thrown upon the fact of petitioner ever having had the property he complained of the Foujdar's having stolen from him. References were made to Joudpoor, which had, as Sir R. Shakespear states in his letter of the 21st January 1854, the effect of proving petitioner Bejising's innocence. Further petitions were then made to the Magistrate, and Assistant

Magistrate Mr. Ritchie, but no proceedings at all were held in the case; no search made for the property; the Foujdar was never questioned on the subject; in fact, nothing that ought to have been done was done. Mr. Ritchie wrote his opinion that petitioner had not proved his case, and so it was disposed of. Thus justice has been withheld from the petitioner for nearly three years, and the Foujdar of Bhownuggur, Samuldas, is either the subject of unjust suspicion, or has been most improperly continued in office for three years. It is to be feared that there is no probability of proof to conviction being now forthcoming, but the Court are bound not to give it up as hopeless, but to direct the Magistrate to institute an active and searching inquiry into the case, and, if possible, redeem our character for justice.

In making this inquiry the Court would suggest that the Magistrate should conduct it himself, or confide it to some less apathetic Assistant than Mr. Ritchie appears from his conduct in this case to be.

The Magistrate is to be requested to report the result of his inquiry.*

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AHMEDABAD.
Denial of Justice.

* *Report by the First Assistant Magistrate.*—In reply to the Magistrate's endorsement No. 675, of 15th ultimo, on extract from the proceedings of the Sudder Foujdaree Adawlut dated 30th July, Mr. Ritchie respectfully begs to submit the following sketch of the inquiry which took place as far as can be ascertained from the records of this Office. The first petition made was received with the then Magistrate's endorsement of 26th April 1853, requesting an inquiry and report upon the allegations therein contained. Mr. Lockett, then First Assistant Magistrate, addressed the Foujdar on the subject on June 7th following, and received a reply of 16th idem, denying that petitioner's property, which he valued at Rs. 6,500, had been seized. Mr. Walter, in temporary charge of the Office, then took petitioner's deposition, from which it appeared that the valuable property in question had been kept merely in a bedding. This was on June 28th, and the same day a report was made to the Magistrate, suggesting a reference to the Political Agent at Joudpoor, touching the truth of petitioner's assertions. The Agent's reply was received from the Magistrate on September 8th, but, petitioner

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AHMEDABAD.
Denial of Justice.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to report, that, in obedience to the order of the Judges conveyed in the extract from their proceedings, he made further

being absent, was kept till November 10th, when a 'shera' to that effect was recorded on it, and also that it did not support petitioner's assertions. On 30th June 1854, the Magistrate forwarded certain papers on the case, which he had received from Joudpoor; but these being in Persian, and no Moonshee being attached to the Collector's Office, they were sent for translation to the Foujdar of Dholera. They were re-transmitted with the translation to the Magistrate on March 30th. They were again received with the Magistrate's instructions of April 21st, directing petitioner to be called and his witnesses to be sent for. This was done on the 26th idem. One witness arrived on January 27th, 1855, but nothing further was elicited by his examination, or that of petitioner, who alleged that this was owing to the witness having been tampered with while passing through Bhownuggur. Two witnesses, however, named by petitioner, denied all knowledge of this, and a reference on the subject to Gogo, where the witness had landed from Bombay, was alike unsuccessful. Two other witnesses were subsequently examined on their arrival, but with similar results. On May 10th a further petition was forwarded by the Magistrate, and a report upon the whole case was sent on the 14th. Finally, the Magistrate having, on June 26th, sent some papers of an inquiry made by the Gogo Police Amuldar, petitioner was for the last time called and examined on June 30th, but of the witnesses he named, one said he remembered seeing things taken off petitioner's person (but of this he had never complained), while the rest could only say petitioner had sold them. The Foujdar had taken his property. A report was then made to the Magistrate, and there the matter ended as far as this Office was concerned.

It will thus be seen that so far from merely a reference being made to the Foujdar and the party complained of, this was only done by Mr. Lockett (evidently by mistake) at the outset; and that with this exception the inquiry has been from beginning to end conducted by the First Assistant Magistrate in person. Every facility, as will be apparent from the above sketch, was afforded petitioner for proving his case, which, as will also be seen, he utterly failed to do.

Mr. Ritchie trusts that this explanation will prove satisfactory to the Judges, and remove the impression of want of energy on his part.

Letter from the Magistrate to the Registrar of the Sudder Fouj-

inquiry into the charge brought against the late Foujdar, but the complainant has failed to establish to his satisfaction that he was ever possessed of the property he stated had been stolen from him, when he was placed in confinement by the Foujdar's order on a charge preferred against him, to answer which he had been first called upon to furnish bail.

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daree Adawlut.—I have the honour to forward, for the information of the Judges, the accompanying copy of a letter from my First Assistant, Mr. Ritchie, No. 123, dated 1st instant, in reference to their remarks, conveyed in an extract from the proceedings which accompanied the Court's Precept No. 718, dated 30th July last, in the case of Bejising Sooltansing.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your letter No. 744, dated 8th instant, forwarding an explanation from Mr. Ritchie regarding the case of Bejising Sooltansing, and, in reply, to inform you that they do not understand this explanation.

It appears that the papers were received from Joudpoor on the 30th June 1854; they were re-transmitted with translation to you on the 30th March; they were again received from you on the 21st April (that must also have been 1855); the witnesses were called for on the 26th, and then it is said "one witness arrived on the 27th January 1855."

In thus pointing out to you that there must be some mistake in this report, the Judges desire me to add that, under the circumstances, they cannot say that it is satisfactory; but it will give them much pleasure to be able at some future time to record that Mr. Ritchie has, by his conduct, removed the impression they have received of a want of energy on his part.

I am at the same time desirous to inform you that the Judges have remarked that this explanation shows that it was Mr. Lockett, and not Mr. Walter, who misunderstood the complaint and called on the Foujdar for a report.

Reply by the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to acknowledge the receipt of your letter No. 2186, dated 23rd ultimo, and to state, in reference to the 2nd paragraph thereof, that, on referring to the Guzerathee papers, it appears that June 30th was written instead of January 30th, 1854.

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Copies of the translation of the depositions taken before the Magistrate are forwarded for the information of the Judges.

It will be perceived that the complainant was not able to give the names of the persons he recently produced as his witnesses to the property in question having been in his possession, and to its having been taken from him by the Foujdar's order. Had these witnesses been cited by him at the time, it is possible their attendance might have been procured, and had they deposed then, as they have now done, sufficient proof might have been obtained to justify the adoption of further proceedings.

In reference to the First Assistant Magistrate's reply, copy of which was forwarded to the Judges under date 8th September last, the Magistrate begs respectfully to submit for the consideration of the Judges, whether every opportunity has not been afforded the complainant from the first to prove his charge, and, if so, the Magistrate feels assured the Judges will acquit this Department of having held no proceedings and done nothing that should have been done, in consequence of which justice had been withheld from the complainant.

It was, the Magistrate would submit, the complainant's business first to establish that he had been possessed of the property he stated had been stolen from him, and if he was unable to name his witnesses at that time, or point out where they might be heard of, he can in this find no ground of complaint against this Department of withholding justice from him.

Resolution of the Sudder Foujdaree Adawlut.—It is very clear from the Magistrate's return in this case that nothing further can be done towards giving the petitioner redress. The same person, it appears, is not now even the Foujdar of Bhownuggur who was so when petitioner complained. The Court, however, cannot alter the opinion they have given, that this case reflects

severely upon our administration of justice, and it is to be regretted that it should have occurred in the case of a foreigner, who probably will not have an opportunity of knowing that this apathy is not habitually to be found in all our proceedings.

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With regard to the last paragraph of his return, the Magistrate might be informed that when the complaint of a robbery having been committed is brought before a Police Officer, or Magistrate, it is not, as he appears to suppose, their duty in the first place to require the complainant to establish the fact that he ever was possessed of the property, as in that case the robbers might escape, but to apprehend the persons supposed to have committed the crime, and, if they prove their innocence, or throw suspicion on the complainant, it is then time enough to inquire whether his charge is not utterly groundless.

Had Mr. Lockett not made the mistake he did when first the case came before him, the petitioner might have had no cause of complaint; as it is, the Court cannot divest themselves of the opinion that he has had too much cause for it.

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TANNA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Pandoo Doming to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Tanna, E. C. JONES, for report, on the 24th December 1856.]

Forgery.

Petition of Pandoo Doming to the Sudder Foujdaree Adawlut.—[Praying for an order to the Magistrate to prepare a case of forgery against a person named Fakeer Dadoo, who forged a paper to injure him.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—The Magistrate of Tanna has the honour to report, that the petitioner presented petitions to the District Police Officer of Salsette and the Acting Hoozoor Deputy Magistrate, to the same effect as the one now under report, and he was informed by both Officers that, unless he could prove that the document alleged to have been forged had been made use of, no notice could be taken of it. He then appealed against this order to the Magistrate on the 15th ultimo, and he was told that there was no reason for interfering with the above order.

The petition received with this Precept is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner having got a copy of the registered bond, the Magistrate ought, the Court think, to have called upon Fakeer Dadoo to produce the original, and have ascertained whether it was a forgery or not.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges. 1857
ROBERT KEAYS, } January 14.

[Proclamation issued by the Magistrate of Ahmednuggur, C. E. F. TYTLER, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 31st December 1856.] AHMEDNUGGUR.

Proclamation issued under the provisions of Regulation XII. Section XIX. of 1827.—Whereas it is the practice with some Hindoos, in the fulfilment of vows, to swing by the hook at temples, or fairs, or on appointed days; and whereas by so doing they injure their bodies and sometimes fall from the hook and break their limbs, or even death ensues; and whereas to behold such a barbarous, cruel, and ignorant custom is repulsive and painful to the feelings of those who attend fairs: Government having ascertained that the enlightened portion of the community would be pleased to see the practice of swinging by the hook, or other self-torture by means of swords or other weapons, put a stop to, has determined to prohibit such practices.

Proclamation by a
Magistrate.
C. E. F. Tytler,
Magistrate.

It is therefore hereby enjoined that no persons shall in future swing by the hook, or aid others in so doing. All Police Authorities are hereby required to prevent such practices, and report when necessary to higher Authority.

Any person acting at variance with this Proclamation at fairs, temples, or on appointed days, within or without a village, at temples or any other place, and swinging by a hook, or wounding his person with a sword, or causing the same to be done, or aiding and abetting the same, will be punished according to Law. Be this known.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In obedience to the Government Resolution No. 4275, of the 20th instant, I have the honour to submit, for the approval of the Judges of the Sudder Foujdaree Adawlut, a Proclama-

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Proclamation by a
Magistrate. *In the Sudder Foujdaree Adawlut; Minute by Mr. W. E. Frere, Frere, concurred in by Mr. Keays.*—The only part of this Proclamation that I object to is the preamble; but as it has been issued, there is no use in recalling it merely to substitute a better preamble; and it may be recorded.
Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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TANNA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Notices issued by the Magistrate of Tanna, E. C. JONES, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 3rd January 1857.]

Notices by the
Magistrate.
E. C. Jones,
Magistrate.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of a tank at Moujé Campoolee, Péta Khalapoor, Talooka Nusrapoor, in the Tanna Zillah, all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to Law.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of a tank at Moujé Narel, Talooka Nusrapoor, in the Tanna Zillah, all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to Law.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Court, and for registry, a copy and translation of two Notices, which I have issued under Section XIX. of Regulation XII. of 1827, at the villages of Campoollee and Narel, in the Nusrapoor Talooka of this Zillahi.

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TANNA.

Notices by the
Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 151 of the Calendar of the Ahmedabad Sessions Court for 1856. Committed by the Second Assistant Magistrate, H. B. LINDSAY, on the 10th December 1856. Tried by the Session Judge, A. B. WARDEN, on the 12th December 1856. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

AHMEDABAD.

Prisoner.—Abeychund Keshore, 'Koonbee, aged 20.

Wilful Perjury.

Charge.—Wilful perjury; in having, on or about Friday, 11th July 1856, (corresponding with Ashad Shood 9th, Sumvut 1912,) while giving evidence before A. B. Warden, Esq., Session Judge of Ahmedabad, in the case of one Amerchund Achoo, who was on his trial for murder, falsely stated, on solemn affirmation, that he was not related in any way to the prosecutor, Gunesh Juwere; the nephew of the deceased Amerchund Valjee, whereas he (prisoner Abeychund) is the brother-in-law of the aforesaid Gunesh Juwere; the prisoner's motive in concealing the relationship between himself and Gunesh being to strengthen the evidence against the prisoner, who was then on his trial, and thus secure his conviction; prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XVI. Clause 1st, of 1827, and Act V. of 1840.

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AHMEDABAD.

Wilful Perjury.

A. B. Warden,
Session Judge.

The prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—The prisoner is charged with wilful perjury; in having, while giving evidence in the case of one Amerchund Achoo, who was on his trial for the murder of Amerchund Valjee, falsely stated, on solemn affirmation, in reply to questions put by the then prisoner, that he was not in any way related to the prosecutor, Gunesh Juwere, the nephew of the deceased Amerchund Valjee. The evidence of witnesses Nos. 1 and 2 (Kewul and Namutrai) proves that the deposition containing the above statement, and recorded as No. 3, was given by the prisoner on solemn affirmation, and that he was two or three times warned by the Session Judge to speak the truth. The evidence of Gunesh Juwere (witness No. 4) proves that the prisoner at the bar is his brother-in-law, he (witness) having married the sister of the prisoner. The witness No. 5 (Sanklee, from whose evidence in the murder case the relationship between the prisoner at the bar and Gunesh was proved), when giving evidence in this case, pretended not to know whether the prisoner's own sister was married to Gunesh or not, although she had previously admitted the fact before this Court and before the Magisterial Authorities. On being reminded of what she had deposed to before the Magisterial Authorities, she pleaded that she had never before appeared in any Court. Gunesh's evidence, however, clearly proves the relationship between him and prisoner; and the prisoner now does not attempt to deny it, but excuses himself on the ground that he was frightened and confused, and did not understand thoroughly. This is, however, as false as his denial of the relationship, for although the prisoner, who was then on his trial for murder, kept declaring that the prisoner, now at the bar, who was then a witness, was perjuring himself, still he persisted in stoutly denying the relationship. The Court warned him of the consequences, and told

him that, if there existed any relationship, to maké it known, for it would eventually be discovered, but it was all in vain. The prisoner's motive in concealing the relationship is quite evident; he thought, by doing so, he would be more readily believed, and thus secure the conviction of the man who was on his trial for murder. The prisoner's denial did not affect the murder case one way or the other, for without his deposition there was sufficient evidence to convict the man then on his trial of culpable homicide; still the Court considered that it was not justified in passing over such a deliberate falsehood, and therefore requested the Magistrate to frame the present charge of perjury against him. Prisoner, on the above evidence, is found guilty of wilful perjury; in having, on or about Friday, 11th July 1856, (corresponding with Ashad Shood 9th, Samvat 1912,) while giving evidence before A. B. Warden, Esq., Session Judge of Ahmedabad, in the case of one Amerchund Achoo, who was on his trial for murder, falsely stated, on solemn affirmation, that he was not related in any way to the prosecutor, Gunesh Juwere, the nephew of the deceased Amerchund Valjee, whereas he (prisoner Abeychund) is the brother-in-law of the aforesaid Gunesh Juwere; the prisoner's motive in concealing the relationship between himself and Gunesh being to strengthen the evidence against the prisoner, who was then on his trial, and thus secure his conviction.

After taking into consideration the nature of the offence proved against you, prisoner Abeychund Keshore, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XVI. Clause 2nd, of 1827, and Act V. of 1840, the sentence of the Court is that you, prisoner Abeychund Keshore, pay a fine of fifty (50) rupees, or else be imprisoned for three (3) months, with hard labour. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

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AHMEDABAD.

Wilful Perjury.

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Wilful Perjury.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge should have proved the prisoner's statement (VI.) before the District Police Officer and Assistant Magistrate, and have recorded it as evidence for the prosecution, since the prisoner admits the perjury, but urges a plea in extenuation, which had been met by evidence for the prosecution, and it then remained for the prisoner to prove the extenuating circumstances, which he has not attempted to do.

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BROACH.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 4 of the Calendar of the Broach Sessions Court for 1856. Committed by the Third Assistant Magistrate, J. G. WHITE, on the 18th October 1856. Tried by the Session Judge of Surat, on Circuit, H. HEBBERT, on the 2nd and 3rd December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Murder.

Prisoner.—Lukhmun Koober, Koolce, aged 26.

Charge.—Murder; in having, at about one o'clock on the afternoon of Sunwar, Bhadrupud Shood 14th, Sumvut 1912, (corresponding with Saturday, the 13th September 1856,) in the village of Roonar, Talooka Jumbooseer, Zillah Broach, purposely, and without justifiable cause, deprived of life his mistress, Kunkoo, by strangling her with a rope, so that she then and there died.

Prisoner pleads not guilty.

H. Hebbert, Ses-
sion Judge.

Finding and Sentence by the Sessions Court.—The evidence in this case goes to show that on the day recited in the charge the prisoner had a quarrel with the deceased, in consequence of which she complained against him, and expressed her desire to be forwarded to Jumbooseer, in order there to prosecute that complaint; that she was accordingly starting for Jumbooseer, when the pri-

soner forcibly brought her back from a short distance out of the village to his house, and afterwards, on the Wurtuneeas proceeding there to demand her, refused to give her up; that after this again, the witness Bhugwan (No. 10), having casually heard what the prisoner had done, about mid-day went to his house, and there saw deceased lying dead upon the ground; that to him the prisoner admitted he had murdered the deceased, lest she should complain against him and bring him into trouble; that that same night the prisoner awoke the aforesaid Bhugwan, and, working on his fears, induced him to aid in disposing of the corpse; that accordingly Bhugwan and another (Kulian, witness No. 9), whom the prisoner told Bhugwan to bring with him, and who also was intimidated into it, accompanied the prisoner to a neighbouring 'tulao,' near the embankment of which they dug a hole and buried the deceased; that the prisoner was recognised as he passed through the village with a burden on his head, which, from the statements of Bhugwan and Kulian, was deceased's body; that the next morning prisoner originated a report that deceased had run away and left him; that the deceased was never seen alive again; but that, some seventeen days afterwards, suspicion having been excited and inquiry made, the two persons who had assisted at the burial of the body were induced to tell what they knew, when the same was disinterred and found to have certain marks on the neck; which led the Members of the Inquest to form the opinion that deceased had met her death by strangulation.

There was no eye-witness as to the mode of deceased's death, but if the testimony of the witnesses Bhugwan and Kulian (Nos. 9 and 10) be believed, no reasonable doubt can exist she came to her end unfairly and by the prisoner's hands. He admitted this to them both. The whole question, therefore, of the prisoner's guilt or,

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innocence, turns on the credibility of these men. There are slight discrepancies in their depositions, but the Court is firmly impressed with the conviction they have on all important points spoken the truth. From their knowledge of the place of deceased's burial, it is a perfectly justifiable assumption they must have been acquainted with her murderer. There is no ground whatever for the supposition they murdered her themselves, nor is there any apparent reason why they should falsely have accused the prisoner. All the concomitant circumstances seem to point him out as the murderer, and, to the Court's mind, the testimony of these men puts his guilt beyond a doubt.

One technical objection to the reception of their evidence has suggested itself to the Court, which is this. Are these men to be regarded as the prisoner's accomplices? If so, as there is no evidence but theirs, this case must fall to the ground, since Regulation XII. of 1827, Section XXXV. Clause 2nd, provides that "the evidence of an accomplice shall operate against a prisoner only so far as it corroborates that of other witnesses, or strengthens impressions produced by circumstances." The Court, however, does not take this view of the matter. They knew nothing of the prisoner's crime until it had been perpetrated, neither were they in any way parties to its perpetration. They afterwards, with the timidity proverbial among Natives, concealed it till closely questioned by the Authorities; but this, in the Court's judgment, does not make them accomplices within the meaning of the Regulation quoted.

The prisoner admits the quarrel with the deceased, and her complaining against him, and her starting for Jumbooseer; but he asserts she returned back with him of her own free will. This, however, is opposed to the necessity for two Wurtuneeas going to his house afterwards to demand her from him, which he admits they did.

His statement is also otherwise inconsistent, in that at first he said he was at home with the deceased all the night of the 14th Bhadrupud Shood, and afterwards said he slept elsewhere, though he now declines to call the witness he had named to prove this. Indeed, the Magistrate has reported there is no such person in the village, but of the receipt of this report the prisoner, when he declined to call the witness, was ignorant. The prisoner's general defence is a flat denial of his guilt, and an assertion that the charge has been brought against him from enmity. That there is an ill-feeling against him, owing to his having cohabited with the deceased, who was not of his own caste, the Court fully believes; but still the Court can see no such working of this ill-feeling in this case as to induce it to doubt the evidence, and on the strength of it acquit him.

For the reasons above specified, the prisoner is convicted of murder as charged, in having, at about one o'clock on the afternoon of Sunwar, Bhadrupud Shood 14th, Sumvut 1912, (corresponding with Saturday, the 13th September 1856,) in the village of Roonar, Talooka Jumbooseer, Zillah Broach, purposely, and without justifiable or extenuating cause, deprived of life his mistress, Kunkoo, by strangling her with a rope, so that she then and there died.

The Court (subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut) passes the following sentence:—

That you, Lukhmun Kooper, be taken to the usual place of execution, and there hanged by the neck till dead. (Regulation XIV. of 1827; Section XXVI. Clause 4th.)

* * * * *

As the Assistant Magistrate has taken notice of the total want of energy and zeal displayed by the Police Patel in this matter, the Court will not comment on it.

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W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Harrison.—This prisoner has been found guilty of murder, and the evidence on which his conviction chiefly rests is that of the witnesses Nos. 9 and 10. If that is true, no doubt can remain of his guilt. The Session Judge states that he sees no reason to question their testimony, neither do I discover reasons for discrediting it. The Session Judge has, however, raised a question as to the validity of the evidence, if these witnesses are considered to be accomplices, which he disposes of by concluding that their admitted knowledge of the murder does not make them accomplices within the meaning of the Regulation. That these witnesses, if their depositions are true, are accomplices, I cannot doubt. They were clearly liable to punishment for concealment of the murder, and they were properly pardoned by the Magistrate before their evidence was taken. The prisoner, it is shown, was on bad terms with the deceased. He had been imprisoned for a year for assaulting her. On the last day that she was seen alive she made a complaint against him to the Patel, who ordered her to go to the District Police Officer to Jumbooseer. The prisoner brought her back by force, and refused to let her go again to the Patel when she was called for by that Official. He took her into his house and shut the door, and it is deposed that the sound of blows was audible, and that the deceased was heard to call out under their infliction ; she does not appear to have been seen alive again, and her body was found several days afterwards buried near a tank. The prisoner reported that she had run away. On the night succeeding these occurrences the prisoner was seen by witness No. 11 at night conveying a bundle past his house, and he was challenged by him. The impression that these circumstances produce must, I think, be regarded as decidedly unfavourable to the prisoner, as creating a strong suspicion of his guilt,

which is confirmed and established by the evidence of the pardoned witnesses (Nos. 9 and 10). I do not understand the Session Judge when he says that there is no evidence, save Nos. 9 and 10, against the prisoner, especially as he had above recorded that "all concomitant circumstances seem to point him out as the murderer, and to the Court's mind the testimony of these men (the accomplices) puts his guilt beyond a doubt."

The conviction should be confirmed.

Minute by Mr. Keays.—I am of opinion that the evidence in this case is quite sufficient to uphold the conviction. The first two witnesses depose to and establish the fact of there having been a quarrel between prisoner and Kunkoo on the day before she was missed; that prisoner pulled her away from the Police, and, after pushing her into the house and shutting the door, that they heard prisoner strike Kunkoo several blows. From their evidence also, and from that of others, it is proved that Kunkoo was reported by the prisoner as having absconded, and nothing more was known about her until about sixteen days after this, when the two accomplices gave their deposition, which led to the discovery of her body, which they declare they assisted the prisoner to bury, and that prisoner admitted to them that he had murdered Kunkoo; and their evidence is again confirmed by witness No. 11, who says that on the night of the day on which Kunkoo was murdered he saw two men, one carrying a bundle on his head (the manner in which the approvers say the body was conveyed), and challenged him, when prisoner Lukhmun told him to mind his own business, or words to that effect, and passed on towards Kariwari. I can see no reason whatever why the evidence of the approvers should not be allowed due weight, and consider Mr. Hebbert's view on this subject as erroneous and opposed to practice. I would confirm the conviction, but, in consideration of there

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being no evidence as to the manner in which the murder was committed, or of premeditation, I would sentence the prisoner to transportation for life.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed; and prisoner sentenced to transportation for life.

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SURAT.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

[Case No. 27 of the Calendar of the Surat Sessions Court for 1856. Committed by the Principal Sudder Ameen, JUNARDHUN WASOODAVE, on the 27th August 1856. Tried by the Acting Assistant Session Judge, W. SANDWITH, on the 5th and 6th September 1856. Reviewed by the Session Judge, H. HEBBERT, on appeal, on the 24th September 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Perjury.

Prisoner.—Kupoorchund Hurukchund, Savuk, aged 46.

[See pages 836 to 843, Vol. VI., for previous proceedings in this Case.]

H. Hebbert,
Session Judge.

Return by the Session Judge to a Precept of the Sudder Foujdaree Adawlut.—The extract of proceedings accompanying this Precept has been duly received, and the instructions contained therein carried out. The prisoner was released on the 8th instant.

With reference to the 1st, 3rd, and commencement of the 5th paragraphs of Mr. Frere's Minute, the Session Judge begs to offer the following explanation of the circumstances therein alluded to:—Under an order issued by Mr. Sutherland, in 1836, the practice of this Adawlut is for the Native Judicial Functionaries, on noticing anything suspicious in a case on trial before them, to refer the same for the opinion of the Judge. In conformity with this practice, the Principal Sudder Ameen reported, on the 21st January last, that he considered

the prisoner (Kupoorchund Hurukchund) had perjured himself, but that his evidence not being, as he thought, very essential or important, he doubted whether, technically, a charge of perjury would hold good; therefore on this point he sought the Judge's counsel. The Judge considered he should be better able to form an opinion on a review of the whole case, and after hearing the parties *pro* and *con*, should an appeal be preferred; therefore he allowed the matter to lie over till thirty days should have elapsed. On the 22nd February it was reported an appeal had been preferred. The Judge then ordered the appeal to be brought on at once, without reference to its place on the file; and accordingly, as soon after as practicable, viz. on the 28th July, it was so, and was decided. The Judge agreed with the Principal Sudder Ameen that the prisoner (Kupoorchund Hurukchund) had perjured himself, but differed from him as to the pertinency of his evidence to the case, and therefore desired him to commit him for trial to the Sessions. It will hence be seen why any delay was permitted in answering the Principal Sudder Ameen's reference, and also, that the Judge's order was not imperative to commit whether the Principal Sudder Ameen considered the prisoner guilty or not. At that time the Principal Sudder Ameen had no doubt of the prisoner's guilt. His committing him when further inquiry suggested a doubt was his own act. The prisoner being committed, of course the Session Judge had no option but to try him. Having however himself, as Judge, recorded an opinion against him, he thought it more equitable to allow him to be tried by a third party, and therefore sent his case to the Acting Assistant Session Judge for decision.

With reference to Mr. Frere's last paragraph, the Session Judge regrets to state that he does not clearly understand the course of procedure it is desired he should

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follow. In general it is not till the Native Judicial Functionaries come to decide the suit before them that they make up their minds as to which witnesses are to be believed and which not. This was the case in the suit in question. Therefore the instantaneous committal contemplated in Morris's Reports, Volume V. page 598, seems ordinarily impracticable. Further, the Regulations require all relevant evidence, *i. e.* the evidence by which the perjury will be established, to be transferred with the prisoner; but if the Native Judicial Functionaries are to make no preliminary inquiry, or, in other words, not to prepare the case against the prisoner, the Session Judge does not see how this provision is to be met. The evidence of the Karkoon alone, who may have written the prisoner's deposition, would, in many instances, be of little value. The Session Judge would therefore feel obliged for a form of committal such as the Judges would wish to be adopted.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to certify Mr. Sutherland's order, and the case out of which it arose.

Translation of an Order issued by the Judge, Mr. Sutherland, to the Native Judge, dated the 29th August 1836.—In whatever cases brought on before your Court, vigilant watch should be kept on the documents or accounts, &c., and the depositions of the witnesses in those cases, so as to ascertain the nature of the cases. Should any fraud appear in a case, report it to the Hoozoor.

Some of the witnesses, concealing their own real names, give their depositions in others' names; therefore it is essential to take measures so as to recognise them. Separate proceedings should be kept, a form of which is herewith accompanied, according to which you should keep the proceedings, and write down the names of the

witnesses yourself, and put your signature, with your official designation, on each page of the proceedings.

Return by the Session Judge to the Precept of the Sudder Foujdaree Adawlut.—Copy of Mr. Sutherland's Order, dated the 29th August 1836, is hereby certified, as required in the within Precept. It does not appear to have originated in any particular case, but to have been issued in connection with the frauds reported in that gentleman's letter of the 29th September 1836. (Vide Printed Circular Order No. 77.)

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The Session Judge informs us that under an Order from Mr. Sutherland, dated 29th August 1836, the practice at Surat is for Native Judicial Functionaries, on noticing anything suspicious in a case on trial before them, to refer it for the opinion of the Judge; and under the operation of that practice he accounts for the Principal Sudder Ameen not having committed Kupoorchund for perjury until after the appeal from the decision in the original suit in which the perjury was committed was decided by the Judge.

Mr. Sutherland's Order of the 29th August appears to have been one of the instructions referred to in the 19th paragraph, and a part of the plan he adopted with a view to remedy the evils he brought to notice in his letter of the 29th September 1836, which is the accompaniment to the Court's Printed Circular No. 77, of the 22nd April following. The Circular only requires that should any fraud appear in any case, it should be reported to the Judge, not, as Mr. Hebbert has read it, referred for the opinion of the Judge. The Circular appears to me to have been issued with a view to keeping the Judge informed of any improvement or otherwise in the administration of justice in the Zillah, and not, as it appears to have been construed, to set aside the Interpretation of the 6th August 1832 on Clause 1st, Section IX. Regu-

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lation XII. A. D. 1827^{*}; and I would request the Judge to make his subordinates acquainted with the true intent of Mr. Sutherland's Order, and the Interpretation above quoted.

Mr. Hebbert's and my ideas, and, I suppose, experience with regard to cases of perjury must be so different that I fear we shall not agree upon the form of committal which he asks for in the last paragraph of his return. The one to which I referred, in page 598 of Morris's Reports, Vol. V., is the one that a Moonsiff would adopt on finding that the witness before him had perjured himself.

Mr. Hebbert suggests that it is not until they come to decide the suit before them that the Moonsiffs make up their minds as to which witness is to be believed and which not, and therefore that the instantaneous committal I contemplate is ordinarily impracticable; that all relevant evidence must be sent with the case; and that cannot be done unless the Native Judicial Functionaries are to prepare the case against the prisoners, as the evidence of the Karkoon who took down the deposition would in many instances be of little value.

I hope our Native Judges are not so wanting in powers of discrimination, as Mr. Hebbert suggests them to be, as not to be able to tell, until determining which way their decision will be, whether a witness who has deposed before them is to be believed or not. I should have hoped and thought that they could at once, while examining him, have said whether they believed the witness or not; but the question before us did not take so wide a range as to include all witnesses who were not believed. It was restricted to those witnesses who were supposed to have committed perjury, and it is to those that we must suppose Mr. Hebbert refers, or there is an end of the matter. We have only to tell him that we never contemplated every witness who was not believed

being committed for perjury, and therefore that the form he asks for is not required. But supposing Mr. Hebbert's doubts to refer to those witnesses who have really committed perjury, I would tell him that my experience, and that I believe of my brother Judges, is that the perjury is apparent while the witness is deposing: he contradicts himself, or something discrepant is elicited in the course of the trial, which suggests that he might have perjured himself; and then in a suit properly tried he would be recalled, and, if he explained the discrepancy away, there would be an end of the matter; if not, his perjury is then apparent, and he would then be committed: and I cannot imagine other circumstances under which the Moonsiff would commit for perjury. The way in which a perjury, discovered after the decree was passed, should be treated, I have noticed in my Minute of the 3rd ultimo.

I do not imagine that the difficulty about preparing the case, and the Karkoon's evidence not being sufficient for conviction in most cases, can be founded on any practical experience, but rather think that they must have their origin in the mistake Mr. Hebbert made, in fancying that you could not tell, until about to decide the case, whether a witness had committed perjury or not; and I would therefore inform him that, as far as our experience goes, instantaneous committal is not only ordinarily practicable, but nearly the universal practice, and therefore the form we proposed will suffice for all ordinary occasions; but if he or his subordinates meet with a case of difficulty, they must dispose of it to the best of their ability, and, when it comes before us, we shall be able, if necessary, to suggest improvements.

Minute by Mr. Harrison.—I do not think that any further rules or forms of committal in cases of perjury in Civil suits are called for. If any Moonsiff or other Judge considers that a perjury has been committed

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before him, he should summarily commit the offender; and if the perjury is not discovered until a subsequent period, the Magistrate should dispose of it. We cannot lay down any strict rule as to when, during a trial, a committal for perjury should be made. A witness's manner would not always disclose his falsehood, which might only become apparent from weighing evidence subsequently given. The order of Mr. Sutherland quoted seems to have been misunderstood as sanctioning the course adopted in the case of Kupoorchund.

Resolution of the Sudder Foujdaree Adawlut.—The Minutes to be communicated to the Session Judge in reply.

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COLABA.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } *Puisne Judges.*
ROBERT KEAYS,

[Case No. 60 of the Calendar of the Konkun Sessions Court for 1856.

Committed by the Deputy Magistrate, BALAJEE KRISHNA, on the 19th June 1856. Tried by the Acting Assistant Session Judge, J. L. WARDEN, on the 1st July 1856. Reviewed on appeal by the Acting Session Judge, H. P. ST. G. TUCKER, on the 19th August 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Narayenrow Luximon Durekur.]

Conspiracy.

Prisoners.—No. 1, Dharoo bin Sobanjeer Wulunker, Koonbee, aged 32.

2, Narayenrow bin Luximonrow Durekur, Muratha, aged 55.

Charge.—Conspiracy (Regulation XVII. of 1828, Section 1st); in that, on the 19th October 1852, (Mitee Ashwin Shood 7th, Sumvut 1774,) in Péta Poladpoor, Talooka Ryghur, in the Joint Magistracy of Colaba, they did combine together to defraud the Government, by falsely reporting the death of a pensioner, Soobhana, Wulunker, to have taken place on the 22nd August

1852, in Moujé Kotal Boodrook, Talooka Ryghur, while in fact he died on the 10th June 1852; and thereby defrauded Government of the sum of Rs. 16-10-2, improperly received as arrears of pension due to the deceased.

The prisoners are further charged with making a fraudulent use of a forged document (Regulation XIV. Section XVI. Clause 2nd, of 1827); in that, on the abovementioned date, and at the abovementioned place, they did cause to be written, and forwarded to the Mahalkuree, a false report of the death of Soobhana:

The Court, before entering on the prosecution, determines on arraigning the prisoners on the charge of conspiracy only, as on the face of it it appears that no part of the report or the signature was forged.

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—Having heard all the evidence in this case, the Court, considering the charge to be fully proved on the evidence, convicts the prisoners (Dharoo bin Sobhanjee Wulunker and Narayenrow bin Luximurrow Durekur) of conspiracy, and sentences them, under Regulation XVII. of 1828, Section II., to be imprisoned and kept to hard labour, for one (1) year, at the expiration of which time they shall pay a fine of forty (40) rupees each, or be imprisoned and kept to hard labour for a further period of three (3) months.

* * * * *

With regard to the plea put forth by the prisoner Narayen, that his witnesses were not heard, the Court considers it sufficiently refuted by the fact that he has been at Tanna three weeks since the commencement of the trial, and that neither at the time when other witnesses were sent for nor afterwards did he mention the circumstances until now.

Review on Appeal by the Acting Session Judge.—The prisoners are charged with conspiracy, in having com-

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bined to send a false report to the Mamlutdar, in which it was stated that the death of the prisoner Dharoo's father, a pensioner of Government, had taken place on 22nd August 1852, instead of 20th June 1852, the date on which it actually occurred. The object of the said conspiracy being to enable the prisoner Dharoo to obtain a larger sum as arrears of pension than was actually due to him. The transmission of the report, and the obtainment by Dharoo of Rs. 16-10-2 more than he was entitled to, are admitted; and the only point that remains to be determined is the complicity of the prisoner Narayen. Did he really send the report in combination with prisoner No. 1? or were his name made use of and his mark fabricated by the prisoner No. 1 and the alleged writer? Three witnesses besides the writer (whose unsupported statement on this head would be worthy of no credit) have deposed that the prisoner Narayenrow did dictate the report and cause it to be sent. The Assistant Judge has credited the statement of these witnesses, and, though their connection with the writer renders their testimony not altogether unimpeachable, I do not think that I should be warranted in setting aside his verdict on this ground alone.

The Assistant Session Judge should have arraigned the prisoners on the charge of forgery, as they were committed to stand their trial thereon, and have acquitted them. He should have proved the extract from the pension roll before recording it, unless its correctness was admitted by the prisoners. He should also have given a summary of the evidence, and of the reasons which caused him to credit it in his judgment. The Assistant Session Judge, also, in taking the depositions of witnesses, should follow the practice recommended by the Court of Sudder Foujdarée Adawlut in Morris's Reports for March 1856, page 364.

The petitions of the prisoners are rejected.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Harrison.—I do not think that the conviction of Narayenrow (prisoner No. 2) will stand. It is difficult to believe the witnesses deposing to his having come and signed or marked the report written by the witness No. 3 (Wamnajee), who relate what occurred four years ago with so much accuracy, and who appear to be connected with this witness more or less.

The witness No. 8 (Owjee Mhar) also deposes that Narayenrow sent him, at about the time of Soobhana the pensioner's death, to make the report of its occurrence ; and that it was not then made appears to be due to the first prisoner, who did not attend at the Kutcheree.

The second prisoner's assertion, that he had no opportunity of calling his witnesses, should not have been dismissed on such grounds as the Assistant Session Judge records. Unless the Magistrate's proceedings show that he was asked if he had witnesses to call and did not take advantage of the offer, the Assistant Session Judge should have postponed the trial until they were produced.

Narayenrow should be acquitted, and the charge of conspiracy then drops against prisoner No. 1 (Dharoo). The Session Judge has pointed out that the pension roll should have been proved before it was recorded.

The exhibit No. 2 should also have been proved first and recorded afterwards.

Minute by Mr. Keays.—This case was called for on the petition of prisoner Narayenrow Luximonrow, and all that has to be considered is, whether the evidence against him is sufficient to uphold the conviction recorded against him.

That the false report was sent, and the money, amounting to Rs. 16-10-2, in excess of what he was entitled to on account of arrears of pension due to his deceased father, was received by the prisoner Dharoo, are

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admitted; and it is proved by the evidence of four witnesses that prisoner Narayenrow accompanied Dharoo to Wamnajee's house, and dictated to him the false report, and desired Dharoo to sign it. I can see no reason to disbelieve the evidence of these witnesses, and would confirm conviction and sentence.

As the Session Judge has brought the irregularities in the Assistant Session Judge's proceedings to his notice, further comment on them is unnecessary.

Resolution of the Sudder Foujdaree Adawlut.—The case is referred to a third Judge on the conviction.

Minute by Mr. Frere.—Is Narayenrow the Patel of the village? and, as such, is it his duty to report the death of pensioners? If so, he must either have made this report or some other, and the witnesses to prove his *alibi* would be of no use. If not, the conviction will not, in my opinion, hold, as the only evidence is Wamnajee's (witness No. 3) and Balkrishna's (witness No. 6); for Owjee (witness No. 8), a witness for the prosecution, deposes in prisoner's favour.

Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—The Joint Magistrate is to be requested to ascertain and report the rules under which pensioners' deaths are to be reported, that is, whose duty among the Village Officers it is to make the report or to certify it.

Return by the Joint Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept within the specified time, the Joint Magistrate has the honour to report, that he can name no specific rules defining whose duty, among the Village Officers, it is to make reports of pensioners' deaths. Deaths of individuals being by the relatives generally reported to the Police Patel, renders him the fittest person to submit such a report, and in every instance he would be called upon to certify to the same.

The only record on this subject found is an order from the late Sub-Collector, Mr. Seton Karr, to the District Officers, consequent on the receipt of Government Circular, Territorial Department, Revenue, No. 43, dated 5th January 1853, requiring that intimation of pensioners' deaths be given to the Pension Paymaster, and of this the Village Officers have been duly informed.

Further Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—The Joint Magistrate is to be requested to certify the document by which information was given to the Patel of Kotal Boodrook, and his acknowledgment of the receipt of it.

Further Return by the Joint Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In returning the within Precept, the Joint Magistrate has the honour to state, that on inquiry he finds no authority was given to the Patel of Kotal Boodrook, or to any other similar Officers, to grant certificates of pensioners' deaths. It has long been the established practice for them, however, to report such deaths, and, as stated in the reply to the former Precept, No. 1008, dated 5th November 1856, they would be invariably called upon to certify to the same, if required. In some cases, the Patels are in the habit of giving certificates of their own accord, which, however, to be valid, must bear the signature of the Mahalkuree or other District Authority. The Circular Order of 5th January 1853 merely added to the existing practice the rule that these reports should be made to the Pension Paymaster direct by the District Authorities, as well as to the Collector.

The reply to this Precept has been delayed beyond the specified time, pending a reply, which was only received yesterday, to the reference made to the Police Amuldar of Kondvee, whose Station is some eighty miles distant.

Minute by Mr. Frere.—The Return of the Joint Magistrate, No. 564 of 1856, shows that it is no part of

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the Patel's appointed duty to make these reports. The witness for the prosecution, Owjee (No. 8), says he was sent by Narayenrow to report the death, which seems to be all that is required, and I do not think Wamnajee's and Balkrishna's evidence sufficient to warrant the conviction, and Narayenrow must be acquitted, and the charge against Dharoo then falls to the ground.

Final Resolution of the Sudder Foujdaree Adawlut.
—The conviction and sentence are annulled, and prisoners to be discharged.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 101 of the Calendar of the Dharwar Sessions Court for 1855. Committed by the Second Assistant Magistrate, C. F. H. SHAW, on the 30th July 1855. Tried by the Session Judge, A. W. JONES, on the 20th, 21st, 25th, 26th, 27th, 28th, and 29th September 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Esajee oorf Eshwuntrow Luxumun Bidwuee.]

Prisoners.—No. 1, Esajee oorf Eshwuntrow Luxumun Bidwuee, Brahmin, aged 65.

2, Apajee oorf Krishtnaje Shunkur Seela, Brahmin, aged 25.

Charge.—Conspiracy (Regulation XVII. A. D. 1828); in having, the exact date not known, but about June or July 1853, (corresponding with Shuké 1775, Wuishak or Jésht,) formed themselves into a gang, with other persons not apprehended, for the purpose of injuring and impoverishing individuals by the process termed 'bhar,' and in having thereupon proceeded to Dharwar, in the Dharwar Talooka, of the Dharwar Division and Zillah, and there swindled one Ramdeen, Subedar of the 5th Regt. N. I., out of property, in gold ornaments, alleged to be of the value of Rs. 333.

Additional Charge.—In having, about the same time and place, attempted to swindle by bhār one Purushram Kulal.

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—In this case the prisoners are charged with conspiracy, in having swindled one Ramdeen of gold ornaments valued at Rs. 333, and in having attempted to swindle one Purushram.

It appears that about the month of April, May, or June (for none of the witnesses can speak exactly to the month), a person came to the house of Ramdeen, a Subedar of the 5th Regt. N. I., in the Regimental lines in Dharwar, and entered into conversation with him, saying he was a Hindoostanee Brahmin. The Subedar gave him some money, and he went away; but the next day the man came again, and said he knew a Soucar who had been in Bajeerow's service, and had something to propose. The next evening he brought this man, who swore the Subedar to secrecy, and then proposed to place certain property with him, or, what is probably more exact, as stated by the approver, offered to show some concealed treasure to the Subedar for a reward.

The Subedar said he must see the property first, and a Sepoy of the Regiment (witness No. 3) was called and sent with the party, who went out to a place about a mile and a half from Dharwar, and there they remained the greater part of the night, the Sepoy having been persuaded to lie down, as the digging up of the treasure would take time; at length they woke him, and took him to a place close by, where they showed him, in a freshly-dug hole, a copper pot, in which he saw ornaments which he took for gold; they then separated and went home, and he reported this to the Subedar, who thereon gave to the pretended Soucar some ornaments

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and cash, worth in all Rs. 333, under a promise that he would bring the treasure to him the day after next. Neither the Soucar, the Hindoostanee Brahmin, nor the treasure, however, was ever seen by him again.

Notwithstanding his loss, however, the Subedar did not complain of it to any one, partly perhaps from shame at having been duped so egregiously, and partly, no doubt, from consciousness that he was not free from blame in engaging in such a transaction.

But it appears that about a year after this he was summoned by Captain Hervey, of the Thuggee Department, in whose hands the investigation of these bhar cases had been for some time, and that before that Officer he recognised Esajee, the first prisoner before the Court, from among a number of others, as the Soucar who had been the principal party in duping him, and the approver Sheerdyal (witness No. 6) as the man who came to him first about the treasure.

The Subedar, a respectable Native Officer, repeats this recognition before the Court, and it is further supported by the evidence of the Sepoy (Sheerdeen), and their evidence fully corroborates that of the approver, Sheerdyal. The other witnesses in the case also prove that the prisoner No. 2 (Appajee), and the approver, and an old man (the prisoner No. 1 is old) were in Dharwar at the time stated in the approver's deposition, besides deposing to proposals having been made to them to get them some property formerly belonging to the Peshwa.

Another approver (witness No. 7) deposes to having left Jejaree, where the prisoner No. 1 (Esajee) resides, with a party, and having accompanied it as far as Yeksombah, in the Belgaum Zillah, whence the prisoner No. 1 (Esajee), the prisoner No. 2 (Appajee Seela), and Sheerdyal the approver started for Dharwar.

The Session Judge is therefore of opinion that the evidence is sufficient for the conviction of Esajee (the

prisoner No. 1) of the first charge, and he is accordingly convicted of it, but not for that of the second prisoner, who is acquitted.

The prisoner No. 1 (Esajee) is convicted of conspiracy ; in having, the exact date not known, but about June or July 1853, (corresponding with Shuké 1775, Wuishak or Jésht,) formed himself into a gang with other persons not apprehended, for the purpose of injuring or impoverishing individuals by the process termed *bhar*, and in having thereupon proceeded to Dharwar, in the Dharwar Talooka, of the Dharwar Division and Zillah, and there swindled one Ramdeen, Subedar of the 5th Regt. N. I., out of property, in gold ornaments, alleged to be of the value of Rs. 333.

In this case, as in others, the Vakeel contends that the charge will not stand against the prisoners, as, allowing the facts to be proved, they constitute a robbery, and not a conspiracy. The Session Judge, however, is of opinion that, as the law stands at present, conspiracy is the proper charge for the crime for which the prisoners have been committed for trial ; at the same time the Session Judge cannot but record his opinion also, that it appears to him it would be far better that an Act should be passed providing for the punishment of acts of fraud or swindling, such as the prisoners are now charged with, which are neither exactly breaches of trust nor yet robberies.

With regard to the second charge, the evidence is insufficient ; and the Session Judge is moreover of opinion that it ought not to have been included in this case, but should have formed a separate one.

And the prisoners are therefore acquitted upon it.

The sentence is, however, postponed, as there are other charges against the prisoner Esajee Punt.

* * * * *

The Session Judge proceeds to pass sentence upon

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him for the conviction recorded against him on the 29th September 1855.

The delay which has occurred in this was occasioned by the Session Judge having omitted to observe, when the prisoner was acquitted on the 11th instant in Case No. 103 of this year's Calendar, that he was not committed in any other of the ten bhar cases.

After considering, therefore, the nature of the crime committed, and the punishment assigned thereto in Regulation XVII. of 1828, the following sentence is passed:—

That you, Esajee, be imprisoned and kept to hard labour for four (4) years, and then pay a fine of two thousand (2,000) rupees, or be imprisoned for two (2) more years, also with hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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BELGAUM.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 140 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Officiating Assistant General Superintendent at Belgaum, Captain W. D. DICKSON, on the 21st October 1856. Tried by the Session Judge, A. W. JONES, on the 28th November 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Dacoity.

Prisoner.—Mulharee oorf Dajee bin Sutwa oorf Ragho, Ran Kaikaree, aged 35.

Charge.—Under Act XXIV. of 1843, with being a dacoit by profession, and of belonging to gangs of dacoits while engaged in dacoity, particularly in the following instances:—

1st.—To the gang of dacoits, Hunmunta Naique and Soorya Naique, on the occasion of a dacoity at Sirgaum, Péta Waee, Zillah Sattara, at the house of Balkrishn

Parshotum Koolkurnee, on or about the night of the 13th September 1847, (corresponding with the 4th of Bhadrupud Shood, Shuké 1769,) and

2nd.—To the gang of dacoits, Soorya Naique and Hunmunta Naique, on the occasion of a dacoity at Sirgaum, near Raigaum or Naigaum, Péta Waee, Zillah Sattara, upon the house of Venaek Sudasew Aptay, on or about the night of the 10th March 1848 (corresponding with the 5th of Falgoon Shood, Shuké 1769).

Proceedings held before the Officiating Assistant General Superintendent.—The prisoner in this case was arrested under the rules of the Dacoity Department at the close of last December. Captain Hervey, the Assistant General Superintendent, was then on duty at Matheran. Some of the dacoit approvers, by whom it was thought the prisoner could be identified, were out with different parties for the purposes of arrest; others were at a distance. The time taken up in obtaining their testimony brought the preliminary investigation up to the period during which, according to leave granted him by Government, Captain Hervey was about making his departure for Bombay, for the purpose of proceeding on furlough to Europe. The prisoner was then sent to Belgaum, and the charge of the Office having, under orders from the Bombay Government, been handed over by Captain Hervey to his Sheristedar Muzur Ali, who was precluded from Magisterial powers, the active duties of the Department, and especially in this case, were for a time thrown into abeyance, until the 13th June, when the Sheristedar, having seen, by the General Orders, that Captain Dickson had been appointed to officiate in the Department, proceeded to summon the prisoner before him, and to explain to him the provisions of a 'roobkaree' (proceeding) made by Captain Hervey shortly before giving over charge of the Office, to the effect that if the prisoner would confess and agree to turn approver under

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the usual conditions, in consideration of the fact of his two brothers having been already transported, a letter should be written to the General Superintendent, interceding on his behalf, and recommending his admission into this Department. The prisoner, when first brought up before Captain Hervey (there being no approvers then present with the Assistant General Superintendent), had flatly denied his crimes; but afterwards, while in confinement under the Police of the Department at Belgaum, he had been pondering the matter over in his own mind, and on becoming alive to the fact that there were several approvers at hand to give evidence against him, and impressed with the fear of the fate of his two brothers, who had already been transported for dacoity, he came to the determination of confessing, and when the Assistant General Superintendent's offer to intercede with the General Superintendent had been explained to him by the Sheristedar, he at length disburdened his mind and admitted his crimes. The confession was subsequently confirmed by him before Captain Dickson, the Acting Assistant General Superintendent, on the 23rd June, and accordingly on that date a letter was written to the General Superintendent at Simla, requesting his sanction to the prisoner being made an approver. Reference was made back in reply for further information, which was duly furnished, and the final order granting the General Superintendent's sanction at last reached Belgaum on the 28th August.* The prisoner's general narrative and confession were commenced with shortly

* *Certificate of Pardon given by the Officiating Assistant General Superintendent, Captain W. D. Dickson.*—I do hereby certify that the general narrative and confession of the prisoner, under charge of this Department, named Mulharee wulud Sutwa, tribe Kaikaree, aged about thirty-five years, and by occupation a dacoit, have been recorded in full in my presence at my Court at Belgaum, on this 15th day of September 1856, and that he has accordingly been furnished with the usual certificate, which he is at liberty to make use of in his defence.

after, and was recorded in full before the Officiating General Superintendent on the 15th September (instant).

The prisoner Mulharee wulud Sutwa is found guilty of the charge on his own confession, and the evidence obtained from the approvers and records of this Court, as contained in the foregoing proceedings, supported by the accompanying records and correspondence, and he is therefore committed under the provisions of Act XXIV. of 1843, for trial to the Court of the Political Agent of the Southern Muratha Country.

* * * * *

Further Proceedings held before the Officiating Assistant General Superintendent.—I adhere to the finding recorded by me in these proceedings on the 18th September 1856, with this alteration, that the prisoner Mulharee wulud Sutwa Kaikaree is committed under the provisions of Act XXIV. of 1843 for trial to the Criminal Court of the Session Judge of Dharwar.

Finding and Sentence by the Sessions Court.—The prisoner is charged with being a dacoit, and with belonging to gangs of dacoits while engaged in dacoity. and pleads guilty.

And as he also confirms the confession he had previously made before the Assistant General Superintendent of Thuggee and Dacoity, in which he acknowledged having been engaged in twenty-five dacoities, the Session Judge convicts the prisoner, Mulharee oorf Dajee bin Sutwa oorf Ragho, as charged,—

1st.—To the gang of dacoits, Hunmunta Naique and Soorya Naique, on the occasion of dacoity at Sirgaum, Péta Wae, Zillah Sattara, at the house of Balkrishn Purshotum Koolkurnee, on or about the night of the 13th September 1847, (corresponding with the 4th of Bhadrupud Shood, Shuké 1769,) and,—

2nd.—To the gang of dacoits, Soorya Naique and Hunmunta Naique, on the occasion of a dacoity at Sirgaum,

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near Raigaum or Naigaum, Peta Wae, Zillah Sattara, upon the house of Venaek Sudasew Aptay, on or about the night of the 10th March 1848 (corresponding with the 5th of Falgoon Shood, Shuké 1769). And after considering the nature of the crime committed, and the punishment assigned thereto in Act XXIV. of 1843, Section I., the following sentence is passed :—

That you, Mulharee oorf Dajee bin Sutwa oorf Ragho, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The sentence is confirmed.

The proceedings to be laid before Government with reference to their letter No. 2760* of 1848, dated 4th August, with the request of the Court that His Lordship in Council will be pleased to issue the requisite orders for the indefinite suspension of the warrant.

* The second paragraph of the letter is as follows :—

In reply, I am desired to request that the Judges of the Sudder Adawlut in the case of every prisoner convicted of dacoity to whom the Thug Agent shall have granted a certificate of exemption from death or transportation on condition of their giving true evidence, will be so good as to forward the proceedings to Government, with a view to His Lordship in Council ordering the sentence to be indefinitely suspended.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Petition of Rungoo wulud Hybutee, Ramosee, a Convict in the Ahmednuggur Jail, to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmednuggur, C. E. F. TYTLER, on the 1st October 1856, for Report.]

AHMEDNUGGUR.

Prisoner.—Rungoo wulud Hybutee, Ramosee.

Suspicious and
Bad Character.

Charge.—Suspicious and bad character.

Order by the Assistant Magistrate.—To furnish a security in the sum of Co.'s Rs. 500, commutable to one year's imprisonment, for his future good conduct for five years, or, in default; to be imprisoned for one year, without labour; and, twenty days before the expiration of his imprisonment, to return the prisoner to the Superintendent, in order that the sanction of the Sudder Foujdaree Adawlut might be obtained for the further detention of the prisoner.

J. W. Henry,
Assistant Magistrate.

Petition of Rungoo wulud Hybutee, Ramosee, to the Sudder Foujdaree Adawlut.—[Praying that the order passed against him might be annulled.]

Precept issued to the Magistrate.—[Calling for a report.]

Return by the First Assistant Magistrate in Charge to the Precept of the Sudder Foujdaree Adawlut.—The First Assistant Magistrate in Charge has the honour to report that the petitioner represented to the Magistrate, as recently as the 30th of July last, that certain parties were willing to stand security for him. Inquiry was consequently made, when all the parties whose names he had mentioned declined to furnish the required security.

The statement, therefore, in the present petition, that the Magistrate has declined to accept his proffered security, is unfounded.

The original petition is herewith returned.

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Precept issued by the Sudder Foujdaree Adawlut to the Assistant Magistrate.—The Assistant Magistrate in charge is to be requested to complete his return by stating the grounds on which so heavy security is required from the petitioner.

Return by the First Assistant Magistrate in Charge.—In reply to the Court's Precept No. 984, of the 23rd instant, the First Assistant Magistrate in Charge has the honour to report that Rungoo Ramoosee is, in the opinion of the Superintendent of Police, of such notoriously bad character, that it would not be consistent with the peace of the country to demand a smaller amount of security.

Precept issued by the Sudder Foujdaree Adawlut to the First Assistant Magistrate in Charge.—The First Assistant Magistrate in charge is to be requested to report by what overt acts has the notoriously bad character been exhibited.

Return by the Magistrate.—The Magistrate has the honour to state that a reference having been made to the Superintendent of Police as to the overt acts of Rungoo Hybuttee, Ramoosee, that Officer reports as follows:—

“Rungoo Ramoosee has rendered himself notorious in every way a bad character can, without actually committing himself far enough to be convicted for each offence. He is notorious as having been the greatest robber in Koretee, and still more notorious for always eluding detection. He is notorious too, and dreaded by every villager in Koretee as a Ramoosee Naique, and as the head of any mischief going. He is notorious to the Police as one of the worst characters in the Zillah. The Superintendent is unable to detail each overt act exhibiting the above; had he been able so to do, and bring them home to Rungoo Ramoosee, he would have been in Jail, and there would have been no need of taking the security. The Superintendent can only add that, from

house-breaking down to bullock-stealing, Rungoo Ramosee is supposed to have had a hand in most offences of importance in Koretee."

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Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—If the prisoner is the character depicted, it could hardly be difficult to name some overt acts supposed to have been committed by him, and their dates; none are set forth. The Magistrate is therefore again to be requested to state any crimes of which there may be good reason to suspect the prisoner, and whether he considers him an object of public distrust.

Return by the Magistrate.—In reply to this Precept the Magistrate has the honour to report, that the "crimes of which there may be good reason to suspect prisoner" are,—

First.—Gang robbery.

Secondly.—A series of robberies in the vicinity of his residence planned by him, though he eluded justice.

Thirdly.—In the year 1851 prisoner suffered four months' imprisonment for adultery.

Fourthly.—In October 1854 he was suspected of horse-stealing, but sufficient evidence was not obtained.

Fifthly.—In March last a most daring robbery was planned and perpetrated by prisoner, although conviction was not obtained.

The Magistrate begs further to state, that he considers prisoner a notorious object of public distrust, and a man dreaded by all, whose release would have a baneful and discouraging effect on the Police and the people of Koretee. The Magistrate trusts, therefore, that no leniency will be shown to prisoner. One leading and accomplished robber of this sort makes a hundred; and while he, by his tact, eludes detection, his pervers, though much less guilty, suffer for him. To restrain such a character is therefore the mildest course the local Authorities can

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pursue. One individual suffers, it is true, but justly, while much unmerited suffering is averted from many.

The delay in replying to this Precept was caused by the necessity of consulting past records.

In the Sudder Foujdaree Adawlut; Minute by Mr.

Harrison.—The Magistrate has now given the Court the assurance on his own authority that the prisoner is an object of public distrust, and that it would be inconsistent with the peace of the country to discharge him without heavy security. I would therefore not interfere. It is, however, a severe reflection on the Ahmednuggur Police, that an offender, proclaimed to be so notorious, should be able to commit a long list of crimes without detection, and that the only measure suggested to stay this career is to shut him up in Jail, instead of looking forward to detecting him in breaking the laws, and securing his punishment if it be not abandoned.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 4 of the Criminal Return of the Magistrate of Surat for October 1856. Tried by the First Assistant Magistrate, C. J. DAVIES, on the 17th, 18th, 23rd, and 24th September, and 2nd October 1856. Confirmed by the Magistrate, H. LIDDELL, on the 3rd November 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Extortion.

Prisoner.—Luloobhaee Desaeebhace, Nagur Brahmin, aged 33.

Charge.—Extortion (Regulation XII. of 1827, Section VIII. Clause 1st); in that, on or about Samvut 1911, Margsheersh Shood 14th, (Sunday, 3rd December 1854,) in Kusba Surbhone, Purgunna Surbhone, Zillah

Surat, he, being a Native Officer in the Police Department, viz. Joint Police Amuldar of Surbhone, received a present of Rs. 8 from Motee Pema and other members of the 'punch' of the Marwaree Vanias of Kusba Surbhone, which they presented to him to induce him to restore their account books which he was detaining in his official character of Joint Police Amuldar of Surbhone.

The prisoner pleads not guilty.

Finding and Sentence by the First Assistant Magistrate, confirmed by the Magistrate.—Luloobhaee Desae-bhaee is called up and informed that the investigation of the other cases against him having terminated (viz. five cases under Section VIII. Regulation XII., in which he has been acquitted for want of proof, and two cases in which the faults committed were departmental and not criminally punishable), he is sentenced on account of the charge of which he has been found guilty in this case to be imprisoned for six (6) months without labour. (Regulation XII. of 1827, Section VIII. Clause 1st.)

I have now to record my reasons for coming to the above decision and passing the above sentence.

As the purport of the Guzerathee exhibits Nos. 14 to 20 has not been given in English in the above proceedings, translations of such parts of them as bear upon the case are here recorded, Nos. 29 and 30.

It appears, from the exhibit recorded No. 13, that, on the 14th August 1854, the Superintendent of Police ordered the prisoner, in common with the other Joint Police Amuldars, to make a report regarding the manner in which Vanias carried on their loan transactions with the poorer classes, and that, on December 9th, 1854, the prisoner made a report, from which he appears to have confined his attention to the Marwaree Vanias only; and in his defence he admits having sent for and examined the books of the Marwaree Vanias. This in itself appears to have been a somewhat arbitrary proceeding,

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but does not constitute the charge against the prisoner. That charge is that the Marwarees, finding their books detained by the prisoner, and having vague suspicions as to his possible object in detaining them, offered him a present of Rs. 8 in order to induce him to give back their books. This present, it is alleged in the case for the prosecution, he accepted; and as the receipt of such a present is declared by the latter part of Regulation XII. of 1827, Section VIII. Clause 1st, to be extortion, the prisoner has been charged with that offence.

The detention of the books and the receipt of the Rs. 8 by the prisoner are directly deposed to by six witnesses (including Suda Bhoodra, whose deposition before the Deputy Magistrate was recorded with the active consent of the prisoner), and their evidence is corroborated by three other witnesses (Juga Wuja, Lala Kesra, and Roopa Kewul). All these witnesses appeared to be above the average; they all appeared intelligent, and their manner was such as to impress me with the conviction that they were trying to tell the honest truth to the best of their ability. The only exceptions which could be taken were as follows:—

Sama Futajee (witness No. 3) was not quite clear in his answers on every occasion, so that once or twice the same question had to be put to him a second time in another form. This, however, apparently arose from the witness (a native of Marwar) not thoroughly understanding Surat Guzerathee, so that he did not immediately catch the sense of the question, and could not immediately make his answer understood. He appeared to be an honest witness.

Vuna Pudma (No. 5) was somewhat too ready a witness,—one of those who wish to tell all they know before they are asked; but this, in my opinion clearly arose from temperament, and not from any wish to give dishonest evidence.

Lala Kesra (No. 12) had an impediment in his voice, and, like most people who stammer when questioned quickly, talked too fast, and confused himself a little; but he appeared an intelligent and truthful witness.

The above are the only exceptions that could possibly be taken to the manner in which the witnesses gave their evidence, and the prisoner (himself of course not unversed in criminal procedure), assisted by two Vakeels, failed, notwithstanding a long cross-examination of each of them, to elicit any discrepancies in their statements.

It does not appear improper to add, that I kept by my side the depositions made by these witnesses some months before in the presence of the Deputy Magistrate (which will be found among the miscellaneous papers of the case), with the view of proving and recording any one of them which appeared to vary from the subsequent statements, and that I did not find it necessary to record any one of them.

In corroboration of the statements of these witnesses, the account-current of the punch with the firm of Dewraj has been recorded (No. 14), and also the corresponding items in the 'rojmel' or cash-account (Nos. 20 and 28). In both of these books Rs. 8 are debited to the punch as paid to some one, on their account, on Margsheersh 14th, (corresponding with December 3rd,) the date of the prisoner's report to the Superintendent of Police being December 9th. These entries were minutely examined by myself and the Vakeels for the defence, and they were also partially checked by comparison with Jaga Wuga's books (No. 11) and Roopa Kewul's (No. 22). No irregularity could be detected; that is to say, nothing which was unusual; though some points might appear irregular to persons who carry on business on a large scale, and keep their books with great formality. All the entries (including the one of Rs. 8) in the rojmel are closely followed and preceded by other en-

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tries, and are clearly not interpolations, nor are the leaves on which they were written, the balances and totals shown being correct. One item only presented some difficulty; it could not be traced in the rojmel, owing to the date of payment having been omitted in the 'khatawahi'; but a second and closer search brought it to light, and it has been recorded (No. 28). The Vakeels for the prisoner were asked if they wished this entry further tested by an examination of Siva Hurnath and his books, but declined, giving as a reason that he of course would be in the same story as the other witnesses.

The only discrepancy which I was able to detect was the item of Rs. 1-6-9, credited as received from Bhoodra Kesra, whereas in Bhoodra Kesra's books (No. 22) the punch is debited Rs. 1-7-0 paid to Dewraj Khema. There is a difference of one anna; and, owing to the absence in Marwar of the managing partners of the firm of Dewraj, the discrepancy remains unexplained. This difference of one anna can, however, in no way be owing to a wish to make a fictitious balance to cover the interpolation of Rs. 8 on the other side, for it is clear that one anna will not balance Rs. 8. In fact, this was so obvious, that the Vakeels for the prisoner did not ground any, the slightest, objection to the accounts on this discrepancy.

The only objection they took was that the payment is stated to have been made on Margsheersh Wud 14th, and the entries thereof in the rojmel and khatawahi are so dated. That being so, and Margsheersh preceding Falgoon Wuishak and Jésh, this entry should have been the first one in the 'khatoo' instead of the eighth, coming after payments of Falgoon Wuishak and Jésh. To this objection there are several answers.

From the evidence in this case, and from what has come before me in other cases, the mode in which the Marwaree Vanias in the Surat Zillah make up their

accounts appears to be as follows:—When they pay money, or sell grain, &c. on credit to any one, they first write a memorandum of the transaction on a black board ('pati') or slate, which they keep by them. As they have leisure (it may be every day, or it may be every two or three days) they copy the memoranda from the board into a day-book. They frequently keep two day-books (rojmel), one called a 'sood' and the other a 'nanamél,' which last is essentially the cash-book. In the sood all outgoings are entered, whether money, grain, ghee, &c.; in the nanamél only cash payments are entered. As these entries are not made day by day if the memoranda on the board are not very full, it is very possible that the entries of two or more days may have clubbed together in the sood or nanamél. There is an illustration of this in the item of Rs. 1-6-9 mentioned above. In the rojmel the entries of Ashad Wud 8th and 9th are clubbed together, no Ashad Wud 9th being given separately; so that from the rojmel it would appear to have been received on Ashad Wud 8th, whereas it was received on Ashad Wud 9th.

When the Marwaree finds leisure, he, as is stated in the evidence, proceeds to write off his khatawahi (or ledgër), picking out the entries in the sood or nanamél. If the entries be principally in the sood, he would probably make out a 'namoo' or 'samaduskut'; if in the nanamél, he would, as stated by Lala Kesra, make out a 'khatoo' or account current. It is possible that in going through a long nanamél, in not very clear handwriting, he might overlook an entry the first time, in the same manner as the entry (No. 28) of the payment of Rs. 1 to Siwa Hurnath was overlooked by me in the first instance, when further search brought the item to light. It would, as a matter of course, be entered in the khatawehi after entries of a later date. I put this forward as a possible answer to the objection made, though,

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I think, there is a more probable one, which will presently be noticed. That it is possible is shown by this very khatoo, in which two items, to which no suspicion attaches, are thus reversed. In the rojmel, Rs. 1-4-6 is entered as paid on Jeshit Wud 8th for oil, and Rs. 0-4-0 on Jeshit Wud 9th, as paid for something which I am unable to decipher. Yet in the khatoo, the later entry, that of Jeshit Wud 9th, precedes that of Jeshit Wud 8th; so too in Bloodra Kesra's khatawahi (No. 22) an entry of a payment on Ashad Wud 9th is preceded by one of Ashad Wud 13th. To show this more plainly, extracts of a few khatas (not in any way relating to the present case) have been selected at random from Dewraj's books, and recorded (Nos. 15 to 19). In No. 15 an entry of Chuitru Shood 14th comes after one of Chuitru Wud 8th, and one of Chuitru Wud 12th precedes one of Chuitru Wud 9th. In No. 17 two entries of Ashad precede one of Chuitru, Chuitru being the 6th month and Ashad the 9th. In No. 18 first comes an entry of *Ashad*, then one of *Magh*, and then one of *Wuishak*, the order of these months being 9th, 4th, and 7th. In No. 19, an entry of Chuitru, the 6th month, precedes one of *Magh*, the 4th. The exhibit No. 16, in which an account is opened from the month Bhadrupud (instead of Kartik, as is usual), clearly purposely, for there is no actual entry until Ashwin, has been recorded to show that these petty traders do not adjust their accounts with the same regularity as merchants on a larger scale.

The above clearly shows that the circumstance of the item of Rs. 8 being entered in the khatawahi after others of prior date, does not by itself show that entry to be other than a *bonâ fide* one.

The real answer to the objection, however, appears to me to be, that as stated by Lala Kesra with regard to the blank line following the entry in the rojmel, that it was wished to keep the transaction from

view, and therefore the entry of the item was knowingly delayed until the accounts were about to be adjusted, when it was put in, that is to say, when it became necessary, in order to show Roopa Kewal the balance against the punch and in favour of Dewraj. Endeavours of this nature to shroud bribery transactions are not uncommon; but be the reason what it may, the entry in the rojmel still remains, and that certainly is not an interpolation. If that entry presented any marks of interpolation, then the manner in which the Rs. 8 are entered in the khatawahi might fairly be urged as ground for suspicion; but as there are no such marks, I can see no reason for suspecting the corresponding entry in the khatawahi.

The Vakeels also objected that the item of Rs. 3 at page 95 of the rojmel is dated Ashad Wud 12th, while in the khatawahi it is dated Ashad Wud 2nd. This objection scarcely requires notice; the 1 has clearly been omitted by a clerical error.

I am of opinion, therefore, that there is no internal objection to these accounts, or to the evidence of the witnesses for the prosecution.

What may be called the external objections, as put forward by the prisoner in his statement, and urged by his Vakeels incidentally during the case and more formally at its close, remain to be considered. These appear to be:—

A. That the witnesses are all Marwarees, and cannot therefore be deemed trustworthy.

B. That all the witnesses paid a share of the Rs. 8, and must therefore not be considered as witnesses, but as complainants, whose statements cannot be held to corroborate each other.

C. That the witnesses are not trustworthy, because they have cause for enmity against the prisoner.

D. The witnesses are not ignorant people, and are

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in the habit of producing their books in Court, and there was no charge against them. Why, therefore, should they have feared on this occasion and given a bribe?

And E. Not being ignorant, why did they not complain to the Police Amuldar or Magistrate?

F. It is unlikely that the prisoner would have taken a bribe in so public a manner.

G. It is not likely that the witnesses would have offered the prisoner money without any previous agreement.

And, as regards the accounts:—

H. The names of even Sahebs have been fraudulently entered in accounts as receiving bribes, and that therefore the entry of a bribe in an account book is no evidence.

I. Luloobhaee's name is not mentioned in the khatawahi, and in the rojmel a blank is left for the name of the recipient.

I proceed to consider these objections in order.

A. The witnesses are all Marwarees, and cannot therefore be deemed trustworthy.

It is the fashion to cry down Marwarees as cheats and untrustworthy; but it does not therefore follow that they are untrustworthy. They are usurers, and therefore every one has a natural feeling against them as a class. In this feeling I share; and I dare say that they are very hard in their transactions with the poor. But the Shrawuk Vantias of Guzerat are also usurers, and are also hard, harder than the hardness of Marwarees with the poor, and yet it has never been laid down that Shrawuk Vantias, as a class, are to be considered untrustworthy. On the contrary, their evidence is daily received as other people's evidence is, and they possess wealth, social rank, and honour. There is no reason why the Marwaree should be measured by a different standard from that applied to his richer congener, the Shrawuk Vania. But the whole argument is bad: the Marwarees may, as a

class, be untrustworthy, but it would be most improper therefore to assume that particular individuals of that class are *therefore* untrustworthy. An individual can only fairly be deemed to be untrustworthy when his manner in giving his evidence, or the nature thereof, or a conflicting fact, or any other special circumstance, tends to throw discredit on his testimony. All that it is fair to assume, when a witness belongs to a class generally esteemed untrustworthy, is to assume that it is necessary to test his evidence by close examination and cross-examination. The witnesses in the present case have been thus tested, and have stood the test well. As I have stated above, all the witnesses for the prosecution in the present case appeared to me to be above the average both as to intelligence and honesty.

B. That all the witnesses paid a share of the Rs. 8, and must therefore not be considered as witnesses, but as complainants, whose statements cannot be held to corroborate each other.

I must confess that I am unable to see the force of this objection, though the prisoner and his Vakeels brought it forward as conclusive, with the repeated expression that in no Court of Justice ('insafni kortma') is a complainant reputed a witness. The Vakeels referred to this as an established rule in the Courts in which they practised. I am ignorant of any such rule, and it is the first time that I have heard it suggested. But whether there be any such rule anywhere or not, it would be clearly contrary to common sense to apply it in the present case. This is not a case of assertion against assertion—one person saying that another did a certain thing, and the other replying that he did not do it. Here are six men agreeing in a common story, which is corroborated by three others, further corroborated by documentary evidence, and anything but contradicted by evidence (No. 13), that at the time in question the

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subject matter of their story (the calling for and examination of their books) did take place. To say that all the several parts of this evidence must not be held to corroborate the other parts is absurd.

But a shorter answer may be given to the objection, which is a very disingenuous one. None of the witnesses are complainants; that is to say, persons at whose instance, or on whose complaint, this prosecution took place. The prisoner and his Vakeels know well that this case is only one of the number in which the Sirkar is the real complainant. Had I anticipated this objection, it would have been easy to have recorded evidence to show that the witnesses are not the complainants; but it appears unnecessary to do so now, as the prisoners' Vakeels admit the fact by implication when they put forward their objection—"E. Not being ignorant, why did they not complain to the Police Amuldar or Magistrate?"

For C see after E.

D. The witnesses are not ignorant people, and are in the habit of producing their books in Court, and there was no charge against them. Why, therefore, should they have feared on this occasion, and given a bribe?

That the witnesses are not ignorant people is true, and that they are in the habit of producing their books is true. But in what manner do they produce their books in Court? They produce them in Civil Courts to disprove claims made against them, or to prove claims made by them; and they may produce them now and then, as in the present case, in Criminal Courts, for the purpose of specific entries connected with the case being examined. That is to say, they produce their books for a known and specific reason, and one which is in most cases connected with their own interests, and, when the case is over, their books are returned. This is a very different thing from having the books of their whole number called for and detained for an uncertain time, for no reason more

specific than that an order had been received directing this to be done. If anything at all as to the nature of the said order reached them, it was to the effect that their general mode of dealing was being inquired into by a general overhauling of their books. Surely the second set of circumstances differs sufficiently from the first to cause reasonable ground for distrust and fear. Respectable merchants (say Messrs. Forbes and Co. or Messrs. Remington and Co.) might be in the habit of producing their books as evidence in Civil suits to which they were parties, or even in Criminal proceedings with which entries in their books might have connection, but surely such a habit would afford no ground for saying that Messrs. Forbes and Co., or Messrs. Remington and Co., or any other mercantile firm, would have no reasonable cause for feeling distrust and fear if the Superintendent of Police in Bombay were (supposing such a thing possible) to suddenly call for their books and detain them several days, assigning no reason beyond his having received an order. But if it were to ooze out or to be surmised, that the object of calling for the books was to examine the entries therein, to see their mode of dealing, as persons in authority objected thereto, surely the merchants concerned would have very great cause for distrust and fear. Whether their mode of dealing were right or wrong, merchants would naturally object to its being thus violently inquired into; they would further object to their business transactions becoming public, and they would object to the inconvenience of being kept without their books. Vtna Sobajee says, "We feared, because we heard that they were looking into our business transactions ('léndén')"; and Puna Sukha says, "We (*i. e.* the general body of Marwarees) thought, we are merchants and our books should not be shown." I think that these two answers fully meet the objection taken by the defence as to the

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improbability of the witnesses fearing! The rest of this objection therefore falls to the ground; for if they feared, they would, as a matter of course, bribe the person whom they feared, if they thought him accessible to a bribe.

E. Not being ignorant, why did they not complain to the Police Amuldar or Magistrate?

I have already noticed the inconsistency of this objection with a previous one (C). I think that Vuna Pudma satisfactorily answers this objection where he says—"I did not complain, because I preferred putting up with the loss of 12 annas to losing my time." No one can have been conducting Magisterial duties for any time without having been forcibly struck with the great reluctance of Natives to come forward as witnesses, or even as complainants, in criminal cases. This reluctance to come forward even as complainants is not a mere opinion, it is abundantly proved by the number of cases settled by 'rajeenama.' The reason is obvious; the people are not rich enough to be able to quit their homes and waste their time hanging about the Courts, unless they have some personal advantage in view, or some bitter personal feelings to gratify. In the present case, the Marwarees as a body paid Rs. 8 to get back their books, and thereby incurred a loss of less than 12 annas each (the 12 annas included a share of other punch expenses besides the bribe); by complaining, they could not get it back; and they would have incurred more than 12 annas worth of trouble and expense; and therefore, as Vuna Pudma says, "they preferred putting up with the loss of the 12 annas to losing their time." Bitter feelings of enmity might overbalance this reluctance, but this will be noticed in considering the objection,—

C. That the witnesses are not trustworthy, because they have cause for enmity against the prisoner.

The causes of enmity stated by the prisoner and his

Vakeels are, 1st, that the prisoner caused them to keep proper weights and measures; 2nd, that he compelled them to furnish wood for prisoners; and 3rd, that he compelled them to witness prisoners' depositions, or that he was the means of their being compelled to do these things.

The third of these alleged causes furnishes an incidental admission by the prisoner of what I have stated in answer to the preceding objection (E),—the reluctance of Natives to appear as witnesses, or to do anything that may cause them to quit their homes to attend Criminal Courts.

The second alleged cause shows either great ignorance of duty on the prisoners' part, or else a very arbitrary exercise of power, similar to that which he admits in this case, having called for and examined the Marwarees' books.

But all three causes put together are not sufficient to prove enmity on the part of the prisoners,—suffieient not only to overcome their natural reluctance to complain, but, moreover, to enter into a conspiracy to injure him, falsifying their books a considerable time beforehand, for the purpose of corroborating their false story. Undoubtedly, every Official who discharges his duty actively is regarded with some degree of ill-will by those wrong-doers with whose proceedings he interferes; but it does not follow that he thereby excites their active enmity. If the three causes put forward by the prisoner be sufficient to excite active enmity and conspiracy, then the only wonder is that charges similar to the present have not been brought against not only the prisoner, but every Joint Police Amuldar, every Police Amuldar, and (as the enmity must increase with the cause) against every Assistant Magistrate or Magistrate in Guzerat. The prisoner does not allege that he has been more active than others in introducing salutary rules—he certainly produces no evidence thereof; and there is, therefore, no

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reason why he should have been singled out, or why the enmity of the Marwarees of Surbhone should be more active than that of the Marwarees and Shrawuk Vanias in other Districts, or than that of the Guzerathee Vanias in the District of Surbhone. Surely he did to the Guzerathee Vanias what he did to the Marwaree Vanias; why have not the Guzerathee Vanias also been excited by the same causes to bring a false charge against him?

F. It is unlikely that the prisoner would have taken a bribe in so public a manner.

This is inconsistent with the prisoner's objection (B), that all the witnesses are (*i. e.* that there are no others) persons who paid a share of the bribe.

Further, the prisoner elsewhere (G) insists on the fact that there was no previous agreement. That being so, he might take the bribe whenever it might be offered to him, unless he saw cause to distrust any of the spectators. To any one acquainted with a district Kutcherree, it would not appear a very improbable thing that a Native District Officer should not see any one in his Kutcherree before whom he feared to take a bribe. All the people likely to be about are his own underlings and dependants.

I recollect a case, which I tried some years back, in which the Mahalknree of a District received bribes from some twenty persons in a not very dissimilar manner to this; why should he fear a person who shared in giving the bribe seeing the bribe presented by another?

Fortunately criminals are sometimes careless.

G. It is unlikely that the witnesses would have offered the prisoner money without any previous agreement.

That is entirely a matter of opinion; the likelihood or unlikelihood depended entirely on the reputation in which the prisoner was held by the witnesses. One female might travel round the world in every sort of public conveyance, and meet with nothing but respect; another, with a different manner, could not travel from

London to Bristol by railway, without meeting with, what she perhaps might not consider, insult:

H. The names of even Sahebs have been fraudulently entered in accounts as receiving bribes, and that therefore the entry of a bribe in an account book is no evidence.

The Vakeels are right in saying that the names of even Sahebs have been entered in account books as receiving bribes; and if they had said that such entries are *generally* fraudulent, they would have been, happily, correct. But that such entries are *always* fraudulent cannot be assumed, and ere now they have been proved to be true. I will concede that in Guzerat it is a known trick to enter a bribe in an account book as paid to an Official European or Native, whom it is wished to injure. There is such a practice undoubtedly; but that it is a common practice I cannot admit, and certainly it is not common enough to justify the assumption that it would be proper to regard all entries of payment of bribes as no evidence.

I think that in putting this objection, the Vakeels for the prisoner have mistaken the extent to which the accounts are relied on as evidence against the prisoner. By themselves they would be worthless, as they merely show that Rs. 8 were paid to some one. Several persons having stated that they paid Rs. 8 out of a particular fund to the prisoner, one obvious mode of testing their statements was to investigate whether any mention of such payment occurred in the accounts of that fund, and, if so, to test those accounts by comparison with other accounts. Thus these accounts are merely corroborative, not direct evidence.

I. Luloobhaee's name is not mentioned in the khatawahi, and in the rojmel there is a blank left for the name of the recipient.

To this Lala Kesra answers, "The two lines under the entry in the rojmel were left blank on account

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of fear of entering the name of the recipient," and I think this a good answer. These books were liable to be produced and examined in Civil and other Courts; and if the name had been entered, it would have attracted observation; and, as I have urged in answer to previous objections, the Marwarees wanted to have done with the matter, and to be involved in no further trouble or expense in connection therewith. This omission to enter the name is not unusual; it is a common feature in entries of bribes. The enterers endeavour to make the entry in such a manner as to conceal its real designation. For instance, "Durbar Khurch" is a very common head to which to debit a bribe; "Sookree" is another.

The last part of my remarks in answer to the previous objection (H), viz. that these accounts are only corroborative, and not direct evidence, applies also to this.

I find that I have omitted to notice, so slight an impression did it (owing to its worthlessness) produce upon me, the evidence brought forward by the prisoner to disprove the circumstances set up by the prosecution as the exciting cause of the presentation of the Rs. 8, viz. the detention of the books. The witnesses called are four in number, Sooltan Bapoo (No. 25), Rehmutkhan Amudkhan (No. 27), Wasunjee Jeewanjee (No. 26), and Dyaljee Govindjee (No. 24).

Sooltan Bapoo states that he knows nothing about the matter as to how long the books were kept, &c. The most that he says is that he called the Marwarees only once, but this proves nothing, as he adds that he is not always on duty. Rehmutkhan also states that he can give no information on the subject. Dyaljee Govindjee, the Tulatee of a village some two miles distant from Surbhone, perhaps a little less. He could not therefore have sat, or, at all events, ought not to have sat habitually in the Kutcheree; and yet he states, with the greatest confidence, that "the Marwarees were *never*, on *any* day,

either before or after, called with their books," that is to say except on the ———, when their books were returned to them. In other respects this witness's manner in giving his evidence was most unfavourable to him. Moreover, he proves too much. If Luloobhaee merely took an extract from one of the books, and then returned them all to their owners, when did he make the investigation which, in his report of December 9th (No. 13), he states that he did make?

The only one of the four witnesses whose evidence is worth anything is Wasunjee Jeewanjee (No. 26), whose duties would naturally cause him to be pretty regularly in the Kutcheree. His evidence simply amounts to this, that, *to the best of his recollection*, Luloobhaee gave the books back at once, but whether *on the same day or not* he cannot recollect, and that he *did not see* Luloobhaee call the Vanias on any other day. This evidence is certainly not sufficient to overthrow the evidence on the other side.

Holding these views as to the evidence for the prosecution and the defence set up, I have, as recorded above found the prisoner guilty of the charge.

The offence committed is a most serious one—the more serious from the consideration that such an offence can seldom be an isolated one. European Officials have a difficult task in gaining the confidence of the Natives whose interests are committed to their charge; they are few in number, and are obliged to trust much to their subordinates. This, and the difference of their social habits, language, and modes of thought, create a great gulf between them and those whom it is their duty to protect and privilege to direct to the acquisition of greater material comforts and greater mental enlightenment. Their efforts to bridge over this gulf are ever and again thwarted by the wide-spread corruption of their Native subordinates, specific instances of whose malpractices—though those

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malpractices are a matter of notoriety—are not often even heard of without some difficulty, and which are seldom proved so as to warrant a criminal conviction without very great difficulty.

On the other hand, the prisoner had very responsible duties to perform. He had sole Police charge of a district 40,000 square beegas in area, and containing 31 villages and two towns. For the performance of these duties he received Rs. 14-8-0 per mensem. This being the case, I think that he was exposed to very great temptation.

Taking into consideration, therefore, the serious nature of his offence, and the great difficulty of detecting it, and, on the other hand, the temptation to which the prisoner was exposed, I have sentenced him, as recorded above, to six months' imprisonment without labour.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—This case has been investigated with great care by the First Assistant Magistrate, and from the conclusion to which he comes I do not find cause to differ.

It is a case that ought ordinarily to have been committed to the Sessions Court; but I cannot doubt that substantial justice has been administered. The finding is marked by sound judgment, and the punishment awarded with due discrimination.

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—In this case, the prisoner Lulobhaee has been convicted of receiving a bribe of Rs. 8 to induce him to return certain account books which he had ordered to be brought to him from the Marwaree traders in the town of Surbhone.

This bribe is alleged to have been paid from the firm of Dewraj, who kept the accounts of the Vaneer Punch.

The objections raised against this conviction are that, in the first place, the witnesses are all, in point of fact, complainants. This, I think, has been properly overruled

by the Magistrate. The case against the Karkoon seems to have arisen from an investigation entered into by Appajee Ramchunder. The prisoner himself admits that they of themselves made no complaint, and I think, therefore, the Magistrate was justified in accepting their evidence against the prisoner.'

The second point urged against the prosecution is that the bribe was offered without any previous conversation or agreement with prisoner. From the evidence of several of the witnesses I find that the prisoner was notorious for receiving bribes—he was known to receive bribes; and under these circumstances I do not consider the illustration of the lady given by the Magistrate without its point, and that, under such circumstances, there is anything in this objection to prejudice the conviction. The next is that the bribe was openly received. Luloobhaee is described as sitting in a room, the door of which was open; two of the witnesses entered the room; and three remained outside and saw them give the bribe. It must be presumed that they stood close by the door; and as they had accompanied the two parties giving the bribe, and were also interested in the transaction, their presence would not prevent Luloobhaee receiving the bribe, particularly as their closing round the door must have added to the privacy of those concerned in the transaction.

The accounts have been questioned on the ground of their being irregularly kept. The Marwarees are in the habit of keeping their accounts in the manner pointed out by the Magistrate; and as there is no interpolation in the entry, as it is immediately preceded by one entry and followed by another, no space being left between the three for correction, &c., I must say I attribute the entry being made to follow one of a transaction which occurred afterwards does not in my opinion vitiate the accounts as evidence regarding the payment of the Rs. 8 from the

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Punch Khata, particularly when I find entries in other accounts of members of the Punch corroborating the payment of their shares.

The only point now remaining is that Luloobhaee's name is not mentioned in the account; and I agree with Mr. Davies that Lala Kesra (witness No. 21) has given a sufficient answer to this objection.

I would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

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RUTNAGHERY.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 73 of the Calendar of the Rutnagherry Sessions Court for 1856. Committed by the Deputy Magistrate, J. H. TROTT, on the 31st October 1856. Tried by the Acting Session Judge of Tanna, H. P. ST.G. TUCKER, on Circuit at Rutnagherry, on the 18th November 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Robbery by Night,
without Force.

Prisoner.—Govind oorf Dabde bin Soorda Dusoorree,
Koonbee, aged 35.

Charge.—Robbery by night, without force (Regulation XIV. of 1827, Sections XXXVI. and XXXVII. Clause 4th); in that, on the night of 26th October 1856, (Mitee Ashwin Wud 13th, Shuké 1778,) in the Town of Rutnagherry, Zillah Konkün, he did enter the house of Babjee bin Gungajee, Chamber, and did secretly remove therefrom six silver rings and some wearing apparel, of the estimated value of Rs. 9-0-4, the property of the said Babjee bin Gungajee, Chamber.

Prisoner pleads guilty.

H. P. St.G.
Tucker, Acting
Session Judge.

Finding and Sentence by the Sessions Court.—The prisoner is an old and apparently incorrigible offender. At the last Sessions he was tried and convicted by me of

"robbery by night without force," and having previously been in prison on four different occasions, was sentenced to five years' imprisonment with hard labour and fifty stripes. The conviction was set aside by the Sudder Foujdaree Adawlut, who held that the crime committed by the prisoner amounted only to theft, and sentenced him to six months' imprisonment with hard labour and twenty-five stripes. On the second night after his release from jail he secretly entered a dwelling-house, the door of which was open, and removed property to the value of Rs. 9-0-4. Now the Bombay Code does not draw the distinction ordinarily recognised between robbery and theft; it, in fact, includes under one designation—robbery—both the forcible and secret taking of property; but it allows robberies, which, from the smallness of the amount of property stolen, the want of care used in securing it, the absence of cause for personal fear, or other such reasons, may be considered trivial in their nature and consequence, to be punishable as thefts. The question then for me to determine is, is the robbery of which the prisoner has been convicted so trivial in its nature and consequences that, with a due regard to the best interests of society, I can punish it as a theft?

The character of the dwellings of the poorer classes in India are too well known to need any description from me, and the exigencies of the climate render it necessary that for a greater part of the year they should sleep with open doors. The constant recurrence of robberies like the one just committed by the prisoner would be productive of most serious evil to persons of this the most numerous class; and I cannot consider such robberies, when committed, as in the present case, by a habitual offender, to be trivial in their nature and consequences; and am of opinion that they require for their repression the infliction of the highest punishment allowed by Clause 4th, Section XXXVII. Regulation XIV. of 1827.

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rather than the mitigated penalty allowed under Section XXXIX. of the same Regulation.

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I can scarcely conceive a worse case than that of the present prisoner, and I therefore sentence him to the longest term of imprisonment sanctioned by the law for the offence of which he has been found guilty.

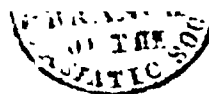
The prisoner, Govind oorf Dabde bin Soorda Dusoorree, is sentenced (subject to the confirmation of the Court of Sudder Foujdaree Adawlut) to be imprisoned and kept to hard labour for the period of ten (10) years from this date, and to receive fifty (50) stripes on his bare back with a cat-o'-nine-tails, of which twenty-five (25) shall be inflicted at the expiration of one month from this date, and twenty-five (25) two months thereafter. (Regulation XIV. of 1827, Section XXXVII. Clause 4th.)

Letter from the Acting Judge to the Registrar Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in the above case, wherein the prisoner Govind oorf Dabde bin Soorda Dusoorree was tried and convicted before me of robbery by night without force, and sentenced to ten years' imprisonment with hard labour, and to receive fifty stripes, twenty-five one month from this date, and twenty-five two months subsequently. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

I beg to suggest, if the Court see fit to confirm the sentence, that the prisoner be transferred from the Rutnagherry to the Poona Jail, where, owing to late improvements, he can be kept in a separate cell, and be made to labour apart from other persons.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—This is a case very similar to that of Dhondo



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bin Sunkrojee, and the Acting Session Judge might have learnt from that that we should not confirm a sentence of such lengthened imprisonment, and that it was useless his passing one of that nature. We might conclude that the prisoner in this case is almost incorrigible, but still I would try what effect a sentence of solitary imprisonment might have upon him, and would mitigate the sentence to six months' solitary confinement, and to be twice flogged, receiving twenty-five stripes each time, the first time on the receipt of the warrant, and the second at the expiration of the first month of imprisonment.

[The second paragraph of the Minute forms the Resolution of the Court.]

Pages 9 to 19 of the Session Judge's proceedings need not be printed in the report; they are mere copies of papers he sent to the Court before in another case; which has been finally decided.

Minute by Mr. Harrison.—This prisoner has pleaded guilty to simple robbery to the extent of Rs. 9-0-4, and has been sentenced to ten years' imprisonment with hard labour and stripes.

W. H. Harrison,
Puisne Judge.

The Session Judge cannot have expected that the Sudder Foujdaree Adawlut would confirm such a sentence, which has been passed in defiance of the opinions communicated to him in regard to his indiscreet exercise of the power vested in him of awarding punishment. It is a question whether the offence of which the prisoner has been convicted should be considered robbery or theft only. It appears that the property was taken from an open box in a house, the door of which was open, and the amount stolen was trifling; there was no cause for personal fear. The law is not to be stretched for the punishment of evil doers because persons are careless of their property. The only aggravation in the case is that the prisoner has been several times convicted of similar

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offences. I would, in confirming the conviction, pass a mitigated sentence. Mr. Tucker's remarks in pages 9 to 19 are not relevant to the case, and not respectful to the Court.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and sentence mitigated to six months' solitary confinement, and to be twice flogged, receiving twenty-five stripes each time, once on the receipt of the warrant, and a second time at the expiration of the first month of imprisonment.

The Court point out to the Session Judge that his sentence of flogging as passed could not be carried out, since the sentence required confirmation, and the case was not received here until the 12th instant, the month at the expiration of which the first flogging was to be inflicted expiring on the 18th December.

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COLABA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notice issued by the Joint Magistrate of Colaba, L. REID, and referred by that Officer to the Sudder Foujdaree Adawlut on the 26th December 1856.]

Notice by a Joint
Magistrate?

Notice is hereby given, for general information, that it is highly expedient to abolish the practice of "swinging by the hook," and the Joint Magistrate of Colaba forbids any person being swung by the hook at the ensuing fair held in the month of Chuitru at Buheerchpada, in the village of Khar Munkoolai, Talooka Oondere, and any one found guilty of disobeying these orders will be dealt with according to law.

The Poojarees, &c. of the Dawee, if found encouraging, instigating, or aiding the people to swing by the hook, will be prosecuted for disobeying the orders of the Magistrate.

By the abolition of the above practice it is not to be supposed that Government wishes to interfere with the religious rites of the people; but as the Hindoo Shasters do not sanction this practice, it must be discontinued after this Notice.

Agreeably to the provisions of Regulation XII. of 1827, Section XIX. Clause 1st, this Notice is submitted for the approval of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for the approval of the Judges of the Sudder Foujdaree Adawlut, a Murathee Noticé, with its English translation, as issued by me in the village of Khar Munkoolai, at Buheerchapada, Talooka Oondere.

I have the honour to state, for the information and approval of the Judges, that similar Notices have been issued in the thirty-six villages as per accompanying list, to which the practice has hitherto been confined.

List, showing the Names of Towns and Villages in the Colaba Joint Magistracy in which the Practice of Swinging by the Hook is known to exist.

No.	Names of Villages.	Talookas.
1	Khar Shapoor Buheerchapada	} Oondere.
2	„ Shabaz	
3	Kusba Wasee	} Sankse.
4	Moujé Wudow	
5	„ Rubgaum	} Rajpooree.
6	„ Pingulsae	
7	„ Shenwae	
8	„ Bhatsae	
9	„ Malatai	
10	„ Mahagaon	
11	„ Wurugsaon	
12	„ Khurale	
13	„ Penn	
14	„ Morebae	
15	„ Soorow	
16	„ Dunguroole	

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Notice by a Joint
Magistrate.

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		17	Moujé Kudapae	Rajpooree.
		18	" Thilorai	
		19	" Illai	
		20	" Bannole	
		21	" Sulwae	
		22	" Sao	
		23	" Dasgaon	
		24	" Kotoordai	
		25	" Kachlai	Ryghur.
		26	Kusba Nathai	
		27	Moujé Khurde	
		28	Kusba Beerwade	
		29	Moujé Nahavai	
		30	" Nandve	
		31	" Chandoorai	
		32	" Duheevle	
		33	Kusba Goregaon	
		34	Moujé Puhale	
		35	" Oonaigaum	
		36	" Satwun	

Resolution of the Sudder Foujdaree Adawlut.—
Recorded.

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AHMEDABAD.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notice issued by the Magistrate of Ahmedabad, J. W. HADOW, and referred by that Officer to the Sudder Foujdaree Adawlut on the 5th January 1857.]

Notice by
Magistrate.

Notice.—The practice of swinging by the hook at certain fairs and 'jattras,' as ascertained to exist in some Zillahs of the Presidency, being a barbarous and inhuman custom, and dangerous to the lives and limbs of those engaged in it, and as it forms no part of the religious creed of any part of the community, Government has determined to forbid the practice. It is therefore hereby proclaimed for general information, that whoever shall swing by the hook, or aid those engaged

in it, will be punished according to Clause 1st, Section XIX. Regulation XII. of 1827.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to submit, for the approval of the Judges, the accompanying copy, with its translation, of a Proclamation issued by me, prohibiting the practice of swinging by the hook, in conformity to the instructions conveyed in the Government Circular No. 2974, dated 29th August 1856.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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AHMEDABAD.

Notice by
Magistrate.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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TANNA.

[Notice issued by the Magistrate of Tanna, E. C. JONES, and referred
• by that Officer to the Sudder Foujdaree Adawlut on the 6th January 1857.]

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of a tank at Kusba Dahanoo, Talooka Sunjan, in the Tanna Zillah, all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice by
Magistrate.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Court, and for registry, a copy and translation of a Notice which I have issued, under Section XIX. of Regulation XII. of 1827, at Kusba Dahanoo, in the Sunjan Talooka of this Zillah.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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TANNA.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.

[Petitions from Waloo bin Ramjee and Jeytoo bin Waloo to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Tanna, E. C. JONES, on the 17th December 1856, for Report.]

Security for Good
Conduct.

Petition from Waloo bin Ramjee and another to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate, requiring them to furnish security, each in Rs. 200 for one year, may be cancelled.]

Precept issued to the Magistrate by the Sudder Foujdaree Adawlut.—[Calling for a report.]

Return by the Magistrate to the Precept.—With reference to the allegations set forth in the petition, herewith returned, which accompanied this Precept, the Magistrate of Tanna begs to report that the petitioner Waloo is a Bhugut, and was believed by the Kolee inhabitants of Bassein to be a soothsayer, to whom they used to pay a sum of about Rs. 150 annually for predicting propitious days for commencing the fishing season. Of late they ceased paying this allowance, and hence the cause of enmity. The Kolees in a body made a petition to the late Third Assistant Magistrate, Mr. C. Gonne, on the 4th January 1856, to the effect that fifty-seven houses belonging to them had been set on fire on the night of 26th December 1855, and property, valued at about Rs. 6,205, destroyed; that they did not know who committed the act, but that they suspected Waloo (the petitioner). On this being inquired into, it was proved that on the morning of the day on which the fire took place, the petitioner (Waloo), before sailing his boat from the Bassein Bunder, spoke thus:—"Some of the people will be lamenting, and others will be laughing"; and that two or three days after this, when the Kolees were consulting together in a house about proceeding to Dharave Devee and the Poss Peer,

the said Waloo and his son Jeytoo uttered the following words:—"What can the Devee or the Peer do? We can do all that is required: it is because you (the Kolees) have left off paying us that your houses are burnt in this manner. Look out, for there will be something worth seeing one of these days." On this being complained of by the Kolees, the Assistant Magistrate directed that Waloo and his son Jeytoo should each furnish a security for his good conduct to the amount of Rs. 200, or, in default, be imprisoned for one year; but both of them stated their inability to furnish the required security, and expressed their willingness to quit the village within one month; this, however, they did not do.

And on the 14th February 1856 the said Waloo and his son Jeytoo presented a petition to the Assistant Magistrate, Mr. Gonne, praying him to cancel his orders (which had not however been carried out): The Assistant Magistrate referred the matter on the 24th March to the Magistrate, who, after perusal of the proceedings and an interview with the parties concerned, gave his opinion, on 26th April, that the case came within the provisions of Section XXXV. Regulation XIV. of 1827, and that the orders previously passed should be acted up to, and, as the petitioners have failed to furnish the required security, they ought to be dealt with according to the Regulations, and not allowed to be at large: the security would be to the effect that Waloo and Jeytoo would refrain from using threatening expressions towards the Kolees, who had already, agreeably to orders previously given, furnished security not to injure Waloo and Jeytoo for one month. Notwithstanding these precautionary measures, and though the petitioners have done nothing to forfeit the terms of their bonds, the Kolees are by no means satisfied that they (petitioners) have not some power to injure them, and render their fishing season an unprofitable one.

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TANNA.

Security for Good
Conduct.

Resolution of the Sudder Foujdaree Adawlut.—The petitions are rejected.

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BELGAUM.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notice issued by the Magistrate of Belgaum, G. B. S. KARR, and referred by that Officer to the Sudder Foujdaree Adawlut on the 3rd January 1857.]

Notice by a
Magistrate.

Notice, under the provisions of Section XIX. of Regulation XII. of 1827, is hereby given, that hook-swinging at the temple of Yeluma Dewe, at Kusba Uthnee, in the Uthnee Talooka of the Belgaum Collectorate, is hereby prohibited. Disobedience of this Injunction will be punished according to law.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward to the Court of Sudder Foujdaree Adawlut a copy and translation of a Notice issued by me, prohibiting hook-swinging at the following forty-three places in this Collectorate:—

Talooka Uthnee,—
Kusba Uthnee.
Kokutnoor.
Telsung.
Jnnwar.
Mungsoolee.
Mudbhawe.
Kunmuree.
Talooka Gokak,—
Khungaum.
Janmuttee.
Doordoonde.
Kanapoor.
Talooka Chikodee,—
Berkehal.

Talooka Chikodee,—
Mungootee.
Burkoondree.
Talooka Sumpgaon,—
Deolapoor.
Hoongul.
Tigree.
Bhavehal.
Talooka Beree,—
Khanapoor.
Talooka Padshapoor
Bagewaree.
Chik Bagewaree.
Arlikutee.
Kunve Kurvinkop.

Talooka Padshapoor,—

Unkulgee.

Nundeehulee.

Desoor.

Bendegeree.

Dhamnee.

Kanburgee.

Oomgaum.

Koomeboojowree.

Kusba Unkulgee.

Murwal; two places.

Talooka Padshapoor,—

Koondurge.

Padshapoor.

Hutee Aloor.

Mownoor.

Benchinmurdee.

Goomchinmurdee.

Shegeehullee.

Kurgoopee.

Mulapoor.

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BELGAUM.

Notice by
Magistrate.

The practice has now been prohibited in every place in the Belgaum Collectorate where it ever existed.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, } WILLIAM EDWARD FRERE, } Puisne Judges.
 } WILLIAM HENRY HARRISON, }

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[Case No. 5 of the Criminal Return of the Joint Magistrate of Colaba for November 1856. Tried by the Joint Magistrate, L. RETD, on the 6th, 14th, 15th, 17th, 18th, and 22nd November 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

COLABA.

Prisoner.—Ooma bin Hutajee, Marwaree, aged 30.

Breach of Religious Law.

Charge.—Breach of his religious law (Regulation XIV. of 1827, Section I. Clauses 1st and 7th); in that, on Sunday, the 6th April 1856, (corresponding to Mitee Chuitru Shood 1st, Ruveewar,) he fraudulently obtained from the complainant, Nama bin Dhurma Patel, who was indebted to him, and whom he had sued in the Civil Court, on his coming to him and agreeing that to forego the suit he would pay him Rs. 32 and 10 maunds of 'bhat,' a document on stamped paper, which, instead of having reference to the compromise of the current account already existing between them (and which he had

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gious Law.

L. Reid, Joint
Magistrate.

sued upon) was made out by him to be an acknowledgment by the said Nama for a further sum of Rs. 32, paid to and received by him in cash, thereby rendering the said Nama liable to an action for money which had never been paid or received, and doubly defrauding him, as the original suit, instead of being withdrawn, was proceeded with and a decree obtained against him.

The prisoner pleads not guilty:

Finding and Sentence by the Joint Magistrate.—In this case, the defendant, who is a money lender, is charged with fraudulent dealing, under the following circumstances :—

Defendant filed a suit against a debtor, Nama, and his three securities (the complainants in the case), for money due on a running account. During the progress of the suit a compromise was effected between the parties, by which the debtor was to pay a sum of Rs. 32 and a small quantity of bhat, and give a new security, and the defendant was to stay further proceedings.

The debtor, Nama, and his new security, Nagoo (witness No. 9), accordingly executed jointly a deed (No. 5), which they presumed had been drawn up in the terms of the compromise.

The defendant, however, instead of withdrawing the suit, prosecuted it, and, obtaining a decree, proceeded to enforce execution. It was then discovered, on the defendant's own representation in fact, that the new deed executed by Nama and Nagoo purported to be an acknowledgment on their parts that they had borrowed and received a further sum of Rs. 32 in cash on a fresh account.

For this the defendant, moreover, threatened to bring an action.

Nama and his securities immediately petitioned the Police Amuldar, complaining of the cheat; and hence the present proceedings.

The evidence may thus be summed up. Nama and his securities deny that this money was paid. The whole matter had, according to them, reference to the compromise of the original debt, and the compromise money, &c. would have been paid at the time and the accounts closed, if the defendant had not tempted his debtor to let the account remain outstanding with him, by saying he was not in need of the money, and would charge very low interest, &c.

The defendant, on the other hand, maintains this money was actually paid, but has no proof except the entry in his books and the deed. Before the Court he attempted to produce two witnesses to the payment, when he had already twice previously stated he had none; but they denied knowing anything of the transaction.

The case, therefore, turns upon the credibility to be attached to the evidence for the prosecution, and the conclusions to be drawn from the nature of the circumstances attending the execution of the new deed.

Now there is just such discrepancy in the evidence of the witnesses to the compromise as precludes the suspicion of their being in collusion and having got up the charge.

The testimony of the securities must be held to prove clearly that the new deed was for the settlement of the old account. One of them (Raghoo, witness No. 8) alone states he was not present, as Nama and the other three securities declare he was, at the compromise which took place at the defendant's house.

It is difficult to decide whether he was or was not present; at any rate the discrepancy, while it does not vitiate the fact of the compromise, is of value as showing they have not studied their parts.

They all agree in stating that they went some time after together to get back the original 'khut,' and were put off by the defendant saying it had not yet come back from the Civil Court.

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The new deed was not written for some days after the compromise was made. At the time of the writing only Nama and his new security Nagoo were present. The writer of the deed (witness No. 11) declares there was no mention of a compromise. He was told it was a cash transaction, and drew out the deed accordingly. He is in the habit, however, of writing these agreements for the defendant, but denies being indebted to him.

The attesting witness (No 12) affirms it was for a compromise. He stated the same before the Police Amuldar, but retracted on a question from the defendant. He cannot read or write. He does not recollect having heard the agreement read over; while the other attesting witness (No. 13) admits having read it, but does not recollect whether the deed was for an old balance of accounts or for a fresh cash transaction. This witness is indebted to the defendant.

Little weight can be attached to such evidence. These witnesses, however, all agree in stating that *no money* was paid in their presence—a very material point.

The defendant, at the trial, produced two witnesses to prove the payment, who, however, stoutly denied all knowledge of the transaction. This was after he had, as already stated, twice denied in the preliminary investigation before the Police Amuldar that he had any witnesses. His separate answers were taken at the interval of a month nearly (24th September and 22nd October 1856), so that he had no lack of time or opportunity to have produced them if he had had any.

It appears that the defendant has lately filed a suit against both these witnesses for a debt of Rs. 500; and the probability is, that at the last moment he tried to get them to give evidence in his favour.

Thus far, then, the Joint Magistrate is of opinion that from the testimony of the witnesses, and the absence of

any proof of the payment of the money, the charge of fraudulent dealing, as instanced, is sustained.

But what are the conclusions to be drawn from the nature of the circumstances under which the deed was executed?

It is certainly more probable on the face of the matter that a compromise would be effected or attempted to be effected while the suit was in progress, than that, at such a time, the debtor so sued should borrow a further sum, nearly equalling in amount that for which he was sued, and which he had no means to pay.

The debtor must have borrowed this money with some object, but there really appears no reason for his requiring this money at the time. He was not embarrassed to pay his Government assessment, nor did he require cattle, seeds, a plough, &c. There was no marriage in his family, nor any cause for his launching into expense. This is positively asserted by his neighbours, who, in so small a village of ten or twelve houses, would know his affairs as well as himself.

The defendant has omitted to conform to one of the commonest practices in his profession, of noting, in all cases of money lent, the purpose for which it was wanted. A good deal of evidence has been taken to show that in this, as well as in other matters, the proceedings of the defendant have been most irregular, if not fraudulent. Had the matter been, as he maintains, the opening of a new account, he should have made allusion in the body of the deed to the fact that there were other balances still due, or nothing remained due from the debtor—a reasonable precaution, which is seldom if ever omitted except by an oversight, and then corrected as soon as discovered. The witnesses called to give evidence as to the mode of conducting such transactions all agree in representing the present case as of a most dubious character. One of these, Buktashet Marwaree (witness No. 17), is the head

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man of the caste, and a renowned money-lender. He has dealings to a large amount with the defendant, who has always kept faith with him, so that he has no reason to colour his case, and his evidence is therefore particularly valuable.

Again, what inference but one can be drawn from the fact of the defendant's having tried to compromise the matter during the trial, and the facts which have come out in the evidence, and which he did not attempt to contradict, of his having squared matters with many of his debtors since the commencement of this case?

The peculiar character of his dealings is well exemplified in the account given by witness No. 15 of the way in which he was let in by the defendant. It says a good deal for the superior craftiness of the defendant in such matters, as the witness is himself as clever a rogue as is out of jail. However much his account may be exaggerated, which does not seem likely, or the defendant would have at any rate attempted a contradiction, still it cannot be gainsayed that even in his instance a compromise was made by the defendant on very favourable terms during the progress of the trial.

Looking to evidence of character, the Joint Magistrate finds the defendant is well known as one of the first among the Shrywuks whose parents (to use a Native current phrase 'ma-bap') are the Civil Courts; even his one appeal for a character failed him (vide No. 14), and, to judge by his method of keeping his accounts, would alone suffice to condemn him.

In the present case (vide Appendix A) he has in the year Sumvut 1774 charged interest one candy bhat *twice* on Rs. 40, making interest equal principal (a candy of bhat being equal to Rs. 20), and *twice* also charged Rs. 5-1-0 as interest on Rs. 20-4-0; the balance of grain due in Sumvut 1774 being 1 candy and 6 maunds, he enters it in Sumvut 1777 as 1 candy and 12 maunds, and

3 pylees, for which there is no account. So the total of Rs. 77-9-9 should be Rs. 77-4-9. This difference of 5 annas may be an oversight, but even a trifle like this becomes magnified in importance when it is considered that nine such cases out of ten in the Civil Courts being decided *ex parte*, the books are the only evidence of the debt.

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Upon such point, therefore, in the case, the Joint Magistrate is of opinion that the charge of fraudulent dealing is legally as well as morally brought home to the defendant.

The complainants, who are illiterate persons, have been made to execute a deed to their prejudice. In what way such was effected, whether by reading it over to them in words different from those in which it was written, or by not reading it at all, &c. is not certain, but the fact of the fraud is indisputable.

The Joint Magistrate accordingly finds the defendant guilty of the charge as set forth, and, taking into consideration the heinousness of the offence, which constitutes a breach of public morality; his ample pecuniary resources, which have fattened on the exaction of cent. per cent. (vide No. 9); his character for pitiless severity to others, which shuts him out from any indulgence himself; and his more than careless method of keeping his accounts, which is in itself for a person in his position no light offence; the Joint Magistrate deems him worthy of severe punishment, and accordingly sentences him to pay a fine of rupees one thousand (1,000), or, in default, to suffer one (1) year's imprisonment with hard labour.

* * * * *

N.B.—The fine having been paid, the defendant is discharged.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

AHMEDABAD.

[Case No. 36 of the Criminal Return of the Magistrate of Ahmedabad for May 1856. Tried by the Assistant Magistrate, H. BULKLEY, on the 12th May 1856. Confirmed by the Magistrate, J. W. HADOW. Proceedings certified to the Sudder Foudaree Adawlut, on requisition.]

Neglecting to
erect Field Boun-
dary Mark

Prisoners.—No. 1, Detar Khoda, Kolee, aged 27.
2, Bechur Sudo, Kolee, aged 18.
3, Veera Roopa, Kolee, aged 20.
4, Khora Oojum, Kolee, aged 40.
5, Bheka Hema, Kolee, aged 35.
6, Julwa Mana, Kolee, aged 18.
7, Khora Dajee, Kolee, aged 28.

Charge.—Neglecting to erect field boundary marks in their village, although their names are in the lists of labourers, and they were told off for the work on the morning of the 12th May 1856. (Regulation XII. of 1827, Section XVIII. Clause 3rd.)

Prisoners plead not guilty.

H. Bulkley, As-
sistant Magistrate.

Finding and Sentence by the Assistant Magistrate.—The Court is of opinion that the prisoners are all guilty of the charge brought against them. In their defence prisoners Nos. 1, 2, 3, 4, and 5 state they each put up half a 'bandh,' which is disproved by the evidence of three witnesses. Prisoners Nos. 6 and 7 assert they left the field, there being no boundary marks for them to make. As four numbers were measured in the morning for which twenty-four bandhs were required (and of which number only two bandhs were made), it does not seem clear to the Court that there was any paucity of boundary marks to be erected had the prisoners felt willing to work. Further, the prisoners one and all state they were prevented returning to work after eating their food, by being summoned before the Assistant Superintendent.

This plea is simply false. The measurer went to work early in the morning, and the prisoners were not brought up before the Assistant Superintendent till about within an hour of sunset. The real fact of the matter is, that a determination to impede the survey operations has lately sprung up amongst the villagers, in consequence of the settlement of a boundary dispute, by which the Kunera people imagine a large portion of their rightful land has been made over to the opposite village. This bad spirit has been shown by an opposition to the holding of flags, and making of boundary marks, since the day the boundary dispute was settled, and much inconvenience has resulted.* Even for the sake of example, the prisoners deserve punishment.

The Court therefore sentences each of the prisoners to be fined five (5) rupees, and, in default of payment, to suffer ordinary imprisonment for the space of fourteen (14) days.

The sentence is declared to the prisoners.

Confirmation by the Magistrate.—In obedience to the orders of the Judges of the Sudder Foujdaree Adawlut, as conveyed in the Registrar's letter No. 2022, dated 28th August, the Magistrate has reviewed the proceedings held by Mr. Bulkley, Assistant Magistrate, in this case.

J. W. Hadow,
Magistrate.

The Magistrate is of opinion that the evidence recorded supports the charge, and therefore sees no reason to interfere in the conviction and sentence recorded by the Assistant Magistrate.

Extract of a Letter from the Registrar to the Sudder Foujdaree Adawlut to the Magistrate.—They further desire me to request that you will have the goodness to review and report on Case No. 36, wherein a fine of Rs. 5 was inflicted on each of the accused, for neglecting to erect field boundary marks in their village.

Extract of a Letter from the Magistrate to the Registrar to the Sudder Foujdaree Adawlut.—In confor-

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mity with instructions conveyed in the 7th paragraph of your letter, I have reviewed the Case No. 36 therein alluded to, and beg to state that I am of opinion that the evidence recorded supports the charge, and therefore see no reason to interfere in the conviction and sentence recorded by the Assistant Magistrate.

Extract of a Letter from the Registrar to the Sudder Foujdaree Adawlut to the Magistrate.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your letter No. 769, dated 16th ultimo, relative to certain cases of your Criminal Return for May last, and to request that you will have the goodness to certify the proceedings in Case No. 36.

Extract of a Letter from the Magistrate to the Registrar to the Sudder Foujdaree Adawlut.—I have the honour to submit the proceedings in Case No. 36 of the Criminal Return for May last, as called for in the 1st paragraph of your letter No. 2283, dated 6th instant.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested, with reference to Act III. of 1846, to ascertain and report the emergency that existed for these men being required to work, as that does not appear in the case.

Memorandum by the Assistant Magistrate to the Magistrate.—The Assistant Magistrate, in reply to the Magistrate's memorandum No. 952 of 1856, dated 21st November, has the honour to state that the prisoners Detar, Khora, and others were appointed, with sundry others of the inhabitants of Kunera, Purgunna Jeytulpoor, to the duty of erecting field boundary marks in their turn, within the lands of their village. This they steadily refused to do, for the reason stated in the proceedings, even after being warned of the consequences. Their refusal entailed great inconvenience on the Survey operations; and had their pernicious

example been generally followed, not a single boundary mark would have been erected by any of the villagers; in which case Government would have incurred a serious pecuniary loss, inasmuch as the measurer's work would have been at a stand-still, and he himself forced to remain idle for some time, not to mention the trouble and annoyance (and consequent loss of valuable time) entailed on the Mamlutdar; who would have been in all probability occupied for days in setting the work going again. In consideration of these circumstances, the prisoners were punished by the Assistant Magistrate, who trusts that the Judges of the Sudder Foujdaree Adawlut will see that a certain amount of emergency *did* exist for the prisoners being required to perform the work allotted to them.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to forward copy of Mr. Bulkley's reply; dated 26th instant; from which it will be seen that the work being of an emergent nature, certain of the villagers were, according to the established rule, required to assist in putting up the new field boundary marks, and that their refusal to perform the work caused great inconvenience to the Revenue Survey operations, and might, had it not been noticed in the way it was, have had the effect of inducing other villages to follow the bad example set by the Kunera people; the consequence of which would have been hindrance to the Revenue Survey operations, resulting in a serious pecuniary loss to Government.

The papers and proceedings are herewith returned, as requested.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—Act III. of 1846 requires the owner or occupier of fields to fix boundary marks, and, in the event of their neglecting to do so, the Revenue Officers may

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do it and charge the owners or occupiers, or, if there are none, the village revenue, with the expenses incurred. There being these provisions, the Magistrate was called upon, with reference to them, to report what the emergency was that would justify his having recourse to the provisions of Clause 3rd, Section XVIII. Regulation XII. A. D. 1827, and compel labourers to put up the marks. He takes no notice of this, but reports that, in consequence of the prisoners' refusal, the work would have been at a stand-still, and much time would have been lost in setting it going again, and therefore, that there was some emergency; entirely overlooking the fact that the emergency he contemplates arises from the prisoners refusing to work, and is not the emergency which rendered it necessary for him to call upon them to work. The Court cannot imagine that the emergency is so great as to require certain persons being appointed for the duty, if the Revenue Authorities will only make use of the powers given them in Act III. of 1846; and with the above explanation the Magistrate must be requested to reply to the Court's former Précept, and explain what emergency existed for these men being forced to work.

Letter from the Assistant Magistrate to the Magistrate.—In reply to your letter No. 1 of 1857, forwarding extract from the proceedings of the Sudder Foujdaree Adawlut, under date the 17th December 1856, I do myself the honour to state, for the information of the Sudder, as follows:—

Act III. of 1846 empowers Survey Officers to have boundary marks made in fields at the cost of proprietors or cultivators, should these latter neglect to do so of themselves; but in the event of non-compliance with the requisitions of the Act in question, Survey Officers have not the power to enforce labour, nor can they exercise this authority with regard to the erection of boundary marks

in Government waste land. Further, it cannot be expected that villagers will willingly put up marks, at the instigation of Survey Officers, in the fields of owners or cultivators who neglect or refuse to do so of their own accord; and, as you are well aware, there is not in most of the villages in Guzerat a sufficient number of labourers who work for hire to erect the large amount of marks required to define boundaries of Survey numbers under these circumstances; and with a view to ensure the timely erection of boundary marks, it has been the custom hitherto in this Survey, and to the best of my belief the practice obtains elsewhere, to divide the entire cultivating and labouring population of each village into a certain number of 'waras,' or gangs, containing from twenty to thirty men each, who work in rotation weekly as labourers. The Village Authorities form these gangs by direction of the Mamlutdars, who, I believe, receive their orders on the subject from the Collector, in fact the system of enforced labour prevails in regard to this portion of our operations. In the month of May last I fined seven of the inhabitants of Kunera, Purgunna Jeytulpoor, for refusing to put up boundary marks in the lands of their village. The names of these men were entered in the lists of labourers made out by the Mookhee, Patel, and Tulatee, and it was their turn to work. At the time this was the only emergency that existed, but I would respectfully submit that it was of some importance that the boundary marks should be made at once, as they usually are, and under this impression I exerted my authority of Assistant Magistrate as above mentioned. In conclusion, I beg to apologise for not having made the present explanation in reply to your former letter. I should certainly have done so had I thought that the Sudder were unacquainted with the fact that the system of enforced labour prevailed in the Guzerat Revenue Survey. I may add that the boundary marks which

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the prisoners refused to make were in Government waste land.

Return by the Magistrate to the Precept of the Sudder Foujdaree Adawlut.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to forward copy of a letter from Mr. Bulkley, dated 9th instant, and to state that, under the circumstances explained by that Officer, there appears to have been, a sufficient emergency to justify Mr. Bulkley compelling the services of labourers in putting up boundary marks, and punishing the non-compliance of the seven men in the case in question, under the provisions of Section XVIII. Regulation XII. of 1827.

The Magistrate begs also to state that the practice, as described by Mr. Bulkley, has obtained, and, to the best of his knowledge, obtains in other parts of the Presidency where the Revenue Survey operations have been introduced, and that the Magistrate does not see any illegality or hardship in requiring the villagers to make their own arrangement where it is well known that the owners of fields will not make the bandhs themselves, and cannot obtain labourers to do the work for them.

Resolution of the Sudder Foujdaree Adawlut.—The Court cannot agree with the Magistrate in his opinion that there was any emergency in this case at all. The Survey Officers have by law power to erect boundary marks, should the occupiers of land neglect or refuse to do so, and to recover the expenses as Revenue demands; but because there is some difficulty in enforcing this law, the Assistants on the Revenue Survey prefer forcing the labourers in the village to do the work, on the ground (to bring it within the law) of their considering it a work of emergency. Though Mr. Bulkley concludes that the Sudder Foujdaree Adawlut must have known “that the system of enforced labour prevailed in the Guzerat Revenue Survey,” Mr. Bulkley’s candid con-

fession of its existence is, in reality, the first they ever heard of it, and until this case came before them they never supposed it possible; for although one of the present Judges of the Sudder Foujdaree Adawlut was in the Southern Muratha Country during the whole time the Revenue Survey was carried on there, he never suspected Captain Wingate of sanctioning forced labour, and should never have expected to have heard of it in Guzerat. The sentence must be annulled, and the fines be returned to the prisoners; for the fact of the land being Government waste makes no difference,—the expenses of the boundaries being put up by labourers would, under the Act, be recovered from the village revenues.

In disposing of this case, the Court feel that their duty to Government and the Ryots requires them to submit their proceedings to Government, in order that they might know that forced labour prevails in the Guzerat Revenue Survey, and take measures either to prevent or legalise it.

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AHMEDABAD.

Neglecting to
erect Field Boundary
Marks.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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BELGAUM.

[Case No. 178 of the Calendar of the Dharwar Sessions Court for 1856.

Committed by the Officiating Assistant General Superintendent at Belgaum, Captain W. D. DICKSON, on the 6th December 1856. Tried by the Session Judge, A. W. JONES, on the 26th December 1856. Proceedings submitted, for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Prisoner.—Nad Tookya Naique oorf Boodya bin Poondya Naique, Kaikaree, aged 50.

Dacoity.

Charge.—Under Act XXIV. of 1843, with being a dacoit by profession, and belonging to gangs of dacoits while engaged in dacoity in the following instances:—

1st.—To the gang of dacoit Kurta Sutwa, on the oc-

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BELGAUM.

Dacoity.

casion of a dacoity at Lalsungee, in the Indee Talooka of the Sholapore Zillah, on the house of Khund Bhut bin Jeewun Bhut, on or about the night of Monday the 28th September 1846, (corresponding with Ashwin Shood 8th, Shuké 1768,) when two villagers were killed and two wounded.

2nd.—To the gang of the said dacoit, Kurta Sútwa, on the occasion of a dacoity at Whortee, in the Indee Talooka, in the Sholapore Zillah, on the house of Sidrama bin Sidupa, on or about the night of Sunday the 20th May 1849 (corresponding with Wuishak Wud 13th, Shuké 1771).

Captain W. D.
Dickson, Officiat-
ing Assistant Ge-
neral Superinten-
dent.

Proceedings held before the 'Officiating' Assistant General Superintendent.—On the 27th April 1852, a Jémédar or Naique of dacoits, named Tookya, son of Poondya, tribe Kaikaree, was registered at the Office of the General Superintendent for the Suppression of Dacoity at Jubbulpoor, under General No. 5687, on the information of two approvers named Bhowanee wulud Bapoo and Bheema wulud Tamuna. On the 20th September 1852 the prisoner was received by this Department from the Poona Jail, whilst undergoing his sentence of imprisonment with hard labour for five years for the Salotgee robbery, for which he was committed by the Magistrate of Sholapore. The prisoner's sentence for this robbery commenced 29th August 1851. The prisoner, being produced before the approvers at Belgaum, was identified as being the dacoit Tookya Naique, son of Poondya above mentioned. As the term of imprisonment awarded to the prisoner for the Salotgee robbery had some time to run, his commitment by this Department was deferred until its expiry. A subsequent delay has been caused by a question arising as to the Court to which commitments should be made by this Department, which, however, has recently been settled.

The prisoner (Nad Tookya, *alias* Boodya wulud

Poondya Naique, *alias* Beemuna, Kaikaree) is found guilty of the charge on his own confession, and the evidence obtained from the approvers, and records of this Court as contained in the foregoing proceedings, supported by the accompanying records and correspondence; and he is therefore committed, under the provisions of Act XXIV. of 1843, for trial to the Criminal Court of the Session Judge of Dharwar.

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BELGAUM.

Dacoity.

Finding and Sentence by the Sessions Court.—The prisoner is charged with being a dacoit by profession, and belonging to gangs of dacoits while engaged in dacoity, and pleads guilty.

A. W. Jones,
Session Judge.

And as he also admits before the Court the confession he had previously made to the Officiating Assistant General Superintendent in the Thuggee and Dacoity Department, giving the details of the two dacoities with which he is charged, he is convicted of being a dacoit by profession, and belonging to gangs of dacoits while engaged in dacoity in the following instances:—

1st.—To the gang of dacoit Kurta Sutwa, on the occasion of a dacoity at Lalsungee, Talooka Indee, Zillah Sholapore, on the house of Khund Bhut bin Jeewun Bhut, on or about the night of Monday the 28th September 1846, (corresponding with Ashwin Shood 8th, Shuké 1768,) when two villagers were killed and two wounded.

2nd.—To the gang of the said dacoit Kurta Sutwa, on the occasion of a dacoity at Whortee, in the Indee Talooka, of the Sholapore Zillah, on the house of Sidrama bin Sidupa, on or about the night of Sunday the 20th May, 1849 (corresponding with Wuishak Wud 13th, Shuké 1771).

And after considering the nature of the crime committed, and the punishment assigned thereto in Act XXIV. of 1843, the following sentence is passed:—

That you, Nad Tookya Naique oorf Poodya bin

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BELGAUM.

Dacoity.

Poondya Naique, be transported across the seas for your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—This prisoner has pleaded guilty to a charge of dacoity, and has been sentenced to transportation for life. The conviction and sentence are confirmed.

The prisoner has admitted the perpetration of a long list of crimes, and received, on conviction of attempt at gang robbery, a sentence of five years' imprisonment, with hard labour, in August 1851. He seems to have suffered little more than one year of this punishment before he was transferred, on the application of the Dacoity Agent, to be employed as an approver, to that Officer's custody. Captain Hervey's original application to the Sudder Court was, as the Court observe, for the transfer of the criminal on the expiration of his sentence; but, being referred to the Session Judge, he then asked for a direct transfer, which request was complied with.

The Court are not aware whether the Assistant Superintendent of Thuggee and Dacoity has means of carrying out, according to law, sentences of imprisonment with hard labour, and whether this convict's sentence has been certified to have been duly executed, and to whom. Care should, however, be taken that such a system, as comes under observation here is not abused, and that a notorious criminal shall not be able to escape infliction of a sentence duly passed upon him, owing to representation by his former confederates, under charge of the Dacoity Agent, that he is able to give important information.

These proceedings will have to be laid before Government, in view to the suspension of the sentence now passed, during pleasure, according to hopes that seem to have been held out to the convict.

It might be suggested to Government as deserving

inquiry, whether any important information was obtained from the prisoner, and whether the ends of justice were better served by the course adopted towards him than they would have been had he undergone his punishment of five years' imprisonment with hard labour, and subsequently been proceeded against either for some one or other of the crimes he had committed, as such could have been proved against him, or, if they were not susceptible of proof, and then only, on a general charge of dacoity.

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BELGAUM.
Dacoity.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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NASSICK.

[Case of Munajee wulud Ranojee, sentenced to furnish Security, in default to suffer imprisonment, by the Assistant Magistrate of Nassick, on the 10th July 1855. Confirmed by the Joint Magistrate, A. R. GRANT, on the 9th October 1855. Requesting sanction of the Sudder Foujdaree Adawlut for the detention of the prisoner for one year.]

[See pages 382, to 386, Vol. VI. of 1856, for previous proceedings in this case.]

Letter from the Magistrate of Ahmednuggur to the Registrar Sudder Foujdaree Adawlut.—I have the honour to lay the following facts before the Judges, and to solicit their final orders.

Failing to Furnish Security for Good Conduct.

The Nassick Jail was in the immediate charge of Dr. Pelly under the Superintendent of Prisons.

The Magistrate lately doubting whether the period of warrants was sufficiently attended to in the Nassick Jail, wrote to Dr. Pelly to inquire.

From Dr. Pelly's report, just received, it appears that one Munajee wulud Ranoo, who had confessed to a charge of murder before the Assistant Magistrate, was discharged by him for want of proof. Security was, however, taken from him on the 10th July 1855, by the Assistant Magistrate, Dr. Pelly, and confirmed for a

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NASSICK.

Failing to Fur-
nish Security for
Good Conduct.

period of one year by the Joint Magistrate. This sanctioned imprisonment up to the 10th July 1856.

On the 4th June 1856 the Jailor of Nassick wrote to the Joint Magistrate requiring the confirmation of the Sudder Foujdaree Adawlut for imprisonment beyond one year.

The Joint Magistrate's records are not in the Magistrate's office, but at Nassick. However, it is evident that he referred the case to the Sudder Foujdaree Adawlut (the date of this reference cannot be given, but it was probably made in the end of June or beginning of July), for an extract of their proceedings, dated 13th August 1856, is on record here, calling for further inquiry before passing order.

The reply to this Precept was that prisoner should be committed on his own confession, and the evidence to the Court, on the charge of murder.

This was accordingly done, but prisoner was discharged for want of proof, and returned to the Magistrate, "in order that, if he saw fit, security may be required from prisoner."

Prisoner was hereon re-transmitted to the Assistant Magistrate in charge of the Jail, with the extract from the Court's proceedings for his information, and such further measures as might be necessary. The Assistant Magistrate in charge of the Jail received the prisoner, and reported, under date the 2nd October, that he had placed the prisoner in confinement on the (Joint Magistrate's) previous warrant. This was wrong; the previous warrant was not confirmed, and did not authorise imprisonment.

The above report was, however, merely recorded by the First Assistant Magistrate in charge with a 'shera' to await the Sudder's reply. A further reference should have been made requesting a final order of confirmation, or otherwise on the Joint Magistrate's original application.

The prisoner has been detained in confinement without

due confirmation during the months of October, November, and December. The Magistrate, on this coming to his notice, immediately ordered prisoner's release, but placed him under surveillance, pending the final orders of the Sudder Foujdaree Adawlut, confirming or mitigating the Joint Magistrate's application.

Measures have been taken to prevent such accident or delay in future.

Resolution of the Sudder Foujdaree Adawlut.—The order of the Sudder Foujdaree Adawlut in this matter was to the Magistrate to review, and his order in review committing the prisoner for trial superseded all former proceedings. If the Magistrate thinks proper to call upon the prisoner to furnish security, he should proceed to take it anew, the old warrant being of no avail.

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NASSICK.

Failing to Furnish Security for Good Conduct.

Present, } WILLIAM HENRY HARRISON, } Puisne Judges.
 } ROBERT KEAYS, }

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TANNA.

[Notice issued by the Magistrate of Tanna, E. C. JONES, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 16th January 1857.]

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the Senala Tank at Cusba Callian, Talooka Callian, in the Tanna Zillah, all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice by a Magistrate.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Court, and for registry, a copy and translation of a Notice issued by me, under

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TANNA.

Notice by
Magistrate.

Section XIX. Regulation XII. of 1827, in the Town of Callian, in this Zillah.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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KONKUN.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 105 of the Calendar of the Konkun Sessions Court for 1856. Committed by the Third Assistant Magistrate, R. W. HUNTER, on the 26th December 1856. Tried by the Acting Session Judge, H. P. ST. G. TUCKER, on the 29th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Murder.

Prisoner.—Katya bin Dhakya Dayat, Warlee, aged 55.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in that, on or about the 15th December 1856, (Mitee Margsheetsh Wud 4th, Shuké 1778,) at Moujé Poonat, Purgunna Neher, Talooka Sunjan, Tanna Division, Zillah Konkun, he did, without justifiable or extenuating cause, strike his wife, Muroo, on her head with a heavy stone, and did thereby deprive her of life.

Prisoner pleads guilty.

H. P. St. G.
Tucker, Acting
Session Judge.

Finding and Sentence by the Sessions Court.—The prisoner has confirmed his confession after hearing the evidence read over, which, if admitted to be true, would have been sufficient to establish the charge against him, and there can be no question that the act which he has committed is murder. I therefore convict him of murder, as set forth in the charge on which he has been arraigned.

The prisoner is a being at the lowest step of the intellectual scale. He would seem to have killed his wife in a moment of anger, caused by the very slightest pro-

vocation, and when under the influence of intoxication. His crime is one of the deepest dye; but, considering that it was committed without premeditation; and that he subsequently surrendered himself, and confessed with every appearance of real contrition, and *that without this confession it would have been very difficult to establish his guilt*, I am of opinion that it is not expedient that capital punishment should be awarded in his case. I therefore sentence the prisoner, Katya bin Dhakya Dayat, to be transported beyond seas for the term of his natural life. Subject to the confirmation of the Court of Sudder Foujdaree Adawlut. (Regulation XIV. of 1827, Section XXVI. Clause 4th.)

Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in the above case, wherein the prisoner, Katya bin Dhakya Dayat, was tried and convicted before me of murder, and sentenced to transportation for life, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

In handing up this case, I would bring prominently to the notice of the Judges the state of the people in the Sunjan Talooka. Crimes of violence, of a similar character to the one which forms the subject of the present trial, are of constant occurrence in that district, and they appear to be principally attributable to the dense ignorance of the inhabitants and their habits of intemperance. I am of opinion that the attention of the Executive Government should be specially directed to this district.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The convict in this case is a Warlee. A description of this race will be found in the Royal Asiatic Society's Journal, Vol. VII. page 14, and from that it will be seen that the race is not a large one, numbering

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KONKUN.

Murder.

W. E. Frere,
Puisne Judge.

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not more than 10,000 souls in 1839. I saw some of them when on Circuit in the Konkun, and found them to be even lower in the scale of humanity than Dr. Wilson, in the paper quoted above, describes them, for he asks them when they first give clothes to their children, while some of those, even women, I saw had no clothes at all, though others, more in the habit of leaving the jungles, certainly wore one small rag each. Dr. Wilson mentions that they are not particularly noted for crime, but unfortunately fond of ardent spirits, and that appears to have been the bane of the wretched man whose case is now before us. I suppose any sentence we pass upon him, however short, would be a sentence of death, and the most merciful sentence to him perhaps would be transportation.

The space occupied by these people is so remote, and their numbers are so small, that I am afraid nothing can be done for them, but would recommend Mr. Tucker to call the Collector's attention to them, with a view to his bringing their state to the notice of Government, if he can suggest any relief for them.

R. Keays, Acting
Puisne Judge.

Minute by Mr. Keays.—The prisoner in this case has pleaded guilty, and confirmed his confession before the Session Judge; the conviction must therefore be upheld.

The prisoner appears to have struck the poor woman twice with the stone. The second blow, in my opinion, indicates premeditation, and, as I can see no reason why a prisoner should be treated with greater leniency because he confesses, and because without the confession it would have been very difficult to convict, I should have been prepared to confirm the extreme sentence of the law instead of transportation, except in consideration of the circumstance alluded to by Mr. Tucker in his letter in handing up the case for confirmation.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Session Judge is to be requested to adopt the course indicated in the last paragraph of Mr. Frere's Minute.

Present, { WILLIAM EDWARD FRERE, } Pusine Judges.
 { ROBERT KEAYS, }

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[Petition of Yesoo bin Ramjee to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Sholapore, W. A. GOLDFINCH, and to the Session Judge, T. A. COMPTON, for Report, on the 19th November 1856.]

SHOLAPORE.

Petition of Yesoo bin Ramjee to the Sudder Foujdaree Adawlut.—[Praying for redress, he having been dismissed from his situation of Peon.]

Misconduct.

Precepts issued by the Sudder Foujdaree Adawlut to the Magistrate and Session Judge.—[Calling for a report.]

Return by the Session Judge.—The Session Judge has the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, with reference to their Precept No. 1063 of 1856, of the 19th ultimo, that the petitioner being at the time of his dismissal a Peon on the establishment of the Moonsiff of Hipurga, his petition appears to have no connection with the Session Judge, excepting in so far as it relates to proceedings connected with the Jail, all reports on which subject are now made to the Inspector General. If the Judges, however, consider it necessary, the Session Judge will report in detail on every point set forth in the petition.

T. A. Compton,
Session Judge.

The petitioner was formerly a Peon on the Jail establishment, and was transferred to the Hipurga Moonsiff's Court on a salary of Rs. 2-8-0 per mensem, for insolence to the Jailor, and for having been on too intimate terms with a Brahmin woman (a prisoner in the Jail), whom he took into keeping on her release from prison.

It was on the report of Vinayek Apajee, not Ramrao Nazir, that the petitioner was removed from the Jail and

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placed on a lower salary. Having lately obtained two months' leave of absence from the Hipurga Moonsiff, he returned to Sholapore, and, with the aid of Dhondee Sepoy, got up the false charges against the Deputy Jailor specified in the petition; and which, whether true or not, there was no trustworthy evidence to support.

The degree of "favour" which the Session Judge shows to the Deputy Jailor may be judged of from the fact that he has lately deprived him of his situation with the approval of the Inspector-General, Mr. Bettington.

The false statements and accusations contained in the petition are simply the result of revenge against the Deputy Jailor, who reported the petitioner's misconduct with the Brahmin prisoner to the Nazir, and was therefore the cause of his removal.

Copy of the Nazir's report regarding the petitioner, recommending his dismissal or transfer to the districts, is herewith forwarded, from which the Judges will be able to gather whether he is a fit person to be retained in Government employ.

The original petition is returned, as directed.

W.A. Goldfinch,
Magistrate.

Return by the Magistrate.—In reply to the above, the Magistrate has the honour to report, that on the 18th of October last, three persons, viz, 1st, Khaja Ahmed, Deputy Jailor; 2nd, Dadum wulud Seid Hussain, a Peon of the Sholapore Jail; and 3rd, Jumal, a prostitute, were sent up to the Office of the Deputy Magistrate, by the Foujdar, for the purpose of an inquiry being made into the circumstances under which a blanket, said to have the Jail mark upon it, had been discovered in the house of the lastnamed person.

Mr. Raymer commenced the inquiry, and it appeared that one Dhondee, a dismissed Jail Peon, had been the informer, and, according to his own account, had been told by the Judge to bring the case to the notice of the Foujdar.

Mr. Raymer, in order to prosecute the inquiry, addressed the Judge on the 18th October 1856, requesting him to forward certain individuals on the Judicial establishment, whose evidence was required, to his Office. No direct written answer to this request appears to have been sent, but some of the persons called for did present themselves, and their depositions were taken by the Deputy Magistrate.

The case was in this stage of inquiry, no charge having been as yet preferred against the Deputy Jailor or the woman Jumal, when the Judge addressed a letter, No. 1128, of 18th October, to the Deputy Magistrate, desiring to know who was the prisoner in the case, and requesting that no charges against members of the Jail establishment, for *misconduct connected with the Jail*, be inquired into without previously acquainting him (the Judge).

In reply to the above letter of the Judge, Mr. Raymer in letter No. 170, of 20th October, explained the circumstances of the case so far as they had then been elicited, and, with the Magistrate's approval, forwarded all the depositions, &c. to the Judge.

What further was done in the matter is unknown to the Magistrate.

Regulation XIII. of 1827, Section X., appears to provide that all misconduct of Officers on his establishment, in connection with their duties, is to be noticed by the Judge; and should he be of opinion that any of his subordinates should be prosecuted criminally, it is by him that the charge should be preferred. Under this impression the Magistrate had no hesitation in directing Mr. Raymer to at once forward all the papers, &c. connected with the inquiry so far as he had conducted it, to the Judge, by whom the case has, the Magistrate presumes, been finally disposed of.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested

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to state whether the Deputy Jailor was deprived of his situation on account of the 'kumlees,' and, if so, what became of the woman Jumal Naikeen.

Return by the Session Judge.—The Session Judge has the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, with reference to their Precept No. 1191, of the 24th December 1856, that the Deputy Jailor was not deprived of his situation on account of the kumlee, but on account of his being deeply in debt (and a prisoner in the Civil Jail), and his frequent absence and inattention to his duties as Overseer of the Jail, notwithstanding repeated warnings.

The Session Judge was convinced that the charge had been trumped up against the Deputy Jailor by the petitioner and his associates, and as the woman Jumal Naikeen of course pleaded ignorance as to the kumlee being Government property, the Session Judge did not think it necessary to forward her to the Magistrate for trial.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN FEBRUARY 1857.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

1857
February 4.
POONA.

[Case of Bapoo bin Sideshwur and six others. Committed by the First Assistant Magistrate of Poona, J. S. INVERARITY, on the 1st September 1856. Tried by the Judicial Commissioner on Circuit at Poona, W. E. FRERE, on the 10th, 11th, 13th, 16th, 17th, 18th, 20th, 22nd, and 28th October 1856. Proceedings laid before the Court on appeal.]

Prisoners.—No. 1, Bapoo bin Sideshwur, Brahmin, aged 45. Conspiracy,
2, Govind Wamun Shastree, Brahmin, aged 48.
3, Rugoonath Ramchunder Shastree, Brahmin, aged 46, Shastree of the Poona Adawlut.
4, Huree Gunesh Vakeel, Brahmin, aged 47.
5, Bhasker Govind Joshee, Brahmin, aged 40.
6, Balajee Ramchunder, Brahmin, aged 25.
7, Sitaram Sudasew Vakeel, Brahmin, aged 40.

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POONA.

Conspiracy.

Charge.—Conspiracy, (Regulation XVII. of 1828, Section I.); in that, on the 13th September 1854, and on divers days before and after, (corresponding to Bha-drūpud Wud 7th, Shuké 1776,) in the City of Poona, you combined together to defeat the course of public justice, and to impoverish and injure one Anundibae, widow of Venaekrow Narayen Hushubnis, the mother and guardian of Shunkerow Venaek, a minor, by means of a corrupt and fraudulent arbitration award, purporting to have been made under the aforesaid date by prisoners Nos. 3 and 4 in favour of prisoner No. 1, and against the aforesaid Anundibae, for a sum of Rs. 17,975-0-6, acting your respective parts as set forth underneath.

Prisoner No. 1, while employed by the abovenamed Anundibae as her confidential agent for the management of a dispute pending in the Civil Courts between herself and one Ambabae, the other widow of her husband, and mother and guardian of Trimbukrow and Gunputrow, minors, you fraudulently obtained bonds and acknowledgments for large sums of money from the said Anundibae, under the false pretence of its being necessary to pay them to lawyers and Government Officials as bribes, &c. in order to have the dispute settled in her favour; and subsequently, after securing the co-operation of the other prisoners (Nos. 2 to 7), got the aforesaid corrupt award passed in your favour for the amount of the abovementioned false bonds and acknowledgments.

Prisoner No. 2, you knowingly and wilfully, in conversation with the said Anundibae, supported the false representations of prisoner No. 1, and urged upon her the necessity of executing to him (the said Bapoo Dixit) the aforesaid bonds, or some of them, and subsequently assisted him in procuring the said corrupt award by attesting the three following fraudulent papers, knowing

them to be fraudulent and void as against the said Anundibae:—

1st.—A 'razeenama,' dated 24th August 1854, purporting to be signed (but never in fact signed) by the said Anundibae, and submitting all matters in dispute between her and Bapoo Dixit to the arbitration of prisoners Nos. 3 and 4.

2nd.—A reply, dated 26th August 1854, purporting to be given by prisoner No. 6, as the constituted agent of the said Anundibae, admitting all the bonds and accounts produced by Bapoo Dixit before the arbitrators in support of his presentation to be genuine and satisfactory, but objecting to the rate of interest, viz. Rs. $1\frac{1}{2}$ per cent. per mensem, claimed by him, but agreeing to give at the rate of Rs. $\frac{3}{4}$.

3rd.—A paper of interrogatories proposed by the prisoners Nos. 3 and 4, as arbitrators, dated 13th September 1854, and of the replies thereto, purporting to have been given by the said Anundibae, consenting to pay compound interest at $\frac{3}{4}$ per cent. per mensem, on the amount awarded to prisoner No. 1, until its liquidation in full.

Prisoners Nos. 3 and 4, you two, in collusion with the other prisoners in this case, prepared and signed the aforesaid corrupt award as arbitrators, without any authority given you on that behalf by the said Anundibae.

Prisoner No. 5, you attested, as one of the witnesses, the aforesaid three papers set forth in the charge against prisoner No. 2, knowing the same to be fraudulent.

Prisoner No. 6, you falsely and fraudulently, and without the knowledge of the said Anundibae, represented yourself to be her constituted agent in the course of the corrupt arbitration, and pretended to give and sign on her behalf the replies to the interrogations mentioned in the charge against prisoner No. 2.

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Conspiracy.

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Conspiracy.

Prisoner No. 7, you falsely and fraudulently, and without the knowledge of the said Anundibae, represented yourself in the Court of the Judge at Poona to be her constituted agent for the purpose of acknowledging the said award, and consented on her behalf to the said award being placed on the records of the said Court.

The prisoners plead not guilty.

W. E. Frere,
Judicial Commissioner on Circuit.

Finding and Sentence by the Judicial Commissioner on Circuit.—The prisoners in this case are charged with conspiracy to injure Anundibae by means of a fraudulent and corrupt arbitration award. The prisoner Bapoo Dixit, in having obtained bonds and acknowledgments for large sums of money, upon which he founded claims, upon which Ragoonath Ramchunder and Huree Gunesh prepared and signed an award, they knowing that the reference was not made by Anundibae, nor the reply to interrogatories signed by her, though they are all said to have been passed by her and attested by the prisoners Govind Wamun and Bhasker Govind, who attested them without her knowledge. Govind Wamun is accused of having advised her to refer the case, which she refused, while Balajee Ramchunder appeared as her Vakeel before the arbitrators, and Sitaram Sudasew appeared as Vakeel to admit the award before the Judge, without having any authority from Anundibae for doing so. The prisoners have all pleaded not guilty. The trial of this case has been unnecessarily protracted by the prosecution having introduced into the charge that the bonds and acknowledgments upon which Bapoo Dixit sued Anundibae were fraudulently obtained, under the false pretence of its being necessary to pay them to lawyers and Government Officials as bribes, in order to have a dispute in which she was engaged with her husband's elder widow settled in her favour. The prosecution appearing to forget that when there is a conspiracy proved to have

been formed; the conspirators are equally liable to punishment whether their object be legal or illegal, so long as the means used to obtain it be illegal.

It appears that Anundibae and Ambabae, the wives of Venaekrow Hushubnis, were left widows in 1842-43; with a clear income of Rs. 2,000 per annum, and Rs. 15,000 or Rs. 16,000 worth of property. That Ambabae, the elder widow, was then about 30, and had two sons and one daughter; the younger widow, Anundibae, was about 22; and had a son, Bhikajeerow, and was pregnant, and subsequently gave birth to another son, Shunkerow. The widows were united at Venaekrow's death, and continued so for nearly two years, when at last they separated, and about that time Anundibae's father, Mahadajee Sudasew, came and lived with her. The arrangement the widows made at separation was followed for some fourteen months, when Anundibae's elder son (Bhikajeerow) died, and Anundibae, as Shunkerow's guardian, applied for a certificate for him as heir to his brother. Ambabae opposed this, on the ground that Shunkerow was only entitled to a third of the whole of his father's property, not to the whole of what would have fallen to his brother's share, as well as his own; and the Judge refusing a certificate, Anundibae was left to sue Ambabae for Rs 1,863-11-1, the portion of Bhikajeerow's property in dispute. The case was ultimately decided in the Sudder Dewanee Adawlut; and the whole costs in all Courts, up to and including the Sudder Dewanee Adawlut, amounted to Rs. 863-4-0. Bapoo Dixit being Anundibae's family priest, and having been her agent in all business, conducted this case, and it was for the law expenses incurred in it, Mahadajee (VI.) says that Bapoo Dixit brought forward his claim, which was decided by the arbitrators, Ragoonath Ramchunder and Huree Gunesh.

The question for consideration is, whether this claim

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was referred to arbitration by Anundibae, or whether the arbitration was false, and the whole matter of conspiracy.

It is asserted that on the 24th August 1854 a dispute between Anundibae and Bapoo Dixit, amounting to Rs. 15,209-15-9, claimed as due upon an account founded on bonds from 24th March 1850 to 11th November 1852 (XIII. XIV. and LXX.), was referred to the arbitration of the prisoners Ragoonath Ramchunder and Huree Gunesh, who passed an award on the 13th September 1854, the deed of reference (XLVI.), answer (XLVII.), answer to interrogatories put to Anundibae (XLVIII.), 'wukalutnama' (XLIX.), and the wukalutnama to admit the award (L.), all purporting to bear Anundibae's signatures.

Anundibae (XLIII.) denies that she ever signed any of these papers, or even consented to refer the case to arbitration, but mentions that about Bhadrupud (August 1854), when her father Mahadajee Punt was in the Konkun, the prisoners Bapoo Dixit, Govind Shastree, Balajee, and Huree Gunesh, with others, came to her house about 3 p. m., and asked her to sign some four or five papers, which she refused to do in her father's absence. Govind Shastree told her that Bapoo Dixit had done her good, and would not injure her now, but failed to persuade her, though they told her the papers were about the division of the property between her and Ambabae; but, persisting in her refusal, she got up and went to her meal, after seeing Bapoo Dixit make as if signing the papers.

All the papers XLVI. XLVII. and XLVIII. are written by the prisoner Balajee, or Bulwuntrow Ramchunder, who appeared as her Vakeel before the arbitrators. He (LXXX.) states that he is in the habit of going to Anundibae's, and promised to act for her in the case. She shortly after sent Chimun Shastree to tell him that the arbitrators had been appointed; so he went to her

house and wrote the 'razeenama' for her, which she signed, and Chimun and Govind attested ; and then, as the arbitrators required other witnesses, prisoners Govind Shastree and Bhasker Govind attested them also. Anundibae subsequently gave him a wukalutnama (XLIX.), and he, with Chimun Shastree, drafted the reply (XLVII.), and also the answers to be given to the arbitrators (XLVIII.). Anundibae approved of the reply, and he signed it and presented it to the arbitrators, but they would not receive it without her corroboration ; so they went to her house to take her signature, which they obtained. Subsequently, on trial, he wrote the answer to the interrogatories (XLVIII.) from information he had obtained from Anundibae, but the arbitrators refused to receive these without her explicit consent ; so they, the arbitrators, and all went to her house and got her signature to them, and then went away to make their award, which they did and brought it (LII.) to her next day, when they read it over to her, and she approved of it. Some days after a notice was brought from the Judge for Anundibae to appear and object to the award being filed, and as she could not do that in person, Balajee drew out a wukalutnama (L.) in prisoner Sitarām's name, and took it to him, but he refused to act upon it without Anundibae's corroboration ; so they went to her house, and she there confirmed the wukalutnama. All these papers are attested by Chimun Hurbhut (XLV.), Shunkerow's tutor, and a connection of Bapoo Dixit's. He states that XLVI. to XLIX. were all attested by him at one time, in Anundibae's absence, in Shrawun (August 1854), at Bapoo Dixit's desire, the prisoners Govind Shastree, Ragoonath Shastree, Huree Punt, and Balajee, being present ; but the papers were not read over to him, the people telling him that they were about the division of the property, and very advantageous to Anundibae. The wukalutnama (L.) he attested some

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days after, and he also wrote Anundibae's acknowledgment upon the award LII., at Bapoo Dixit's desire.

The other attesting witness to the documents was Govind Pandoorung (LV.). His bearing was certainly in the prisoner's favour, but he corroborates Chimun Shastree's account of how the papers were signed, and that they were not signed at Anundibae's desire; that Anundibae refused to sign them, and that L. was not signed, while the others were. Besides these two witnesses the attestation of the prisoners Govind Shastree and Bhasker Govind is also upon the documents XLVI. XLVII. and XLVIII. The latter (LXXIX.) states that he happened to go to Anundibae as Bhikshook one evening, and found her and the prisoners sitting upstairs with Chimun Shastree and Govind Pandoorung; that the deed of reference (XLVI.) was read over to her; that she admitted it, and signed it, and gave it to Chimun Shastree to attest; that he passed it on, after having attested it, to Govind Pandoorung; and that then the arbitrators said that they must have other witnesses, as they did not know Chimun and Govind; so prisoner and Govind Shastree attested it, and gave it back to Anundibae, who placed it before the arbitrators; that two days after he attested the reply (XLVII.), and a fortnight after the interrogatories (XLVIII.). The wukalutnama (XLIX.) was in his handwriting, written at Anundibae's request, and attested by Chimun Shastree and Govind Pandoorung. It is, however, to be remarked, that Bhasker says that he attested the other papers under circumstances similar to those under which he attested the razeenama; he gives no details of how he came to be at Anundibae's house on all three days under such precisely similar circumstances. Govind Wamun's account of it is (LXXVI.) to much the same effect as Balajee Ramchunder's, that Anundibae had spoken to him about referring her dispute with Bapoo Dixit to

arbitration, and that one day Ragoonath Shastree asked him to accompany him to Anundibae's, as he was going to take her razeenama; that Anundibae signed the paper, and then two persons attested it, but the arbitrators said they did not know them well, so they asked him to attest it, which he did; that he attested the other two papers in a similar manner. These, being prisoners, complain with their fellow prisoners that their version of the proceeding is not allowed the weight it would have had had they not been made prisoners, but left, as they ought to have been, witnesses. Supposing they had been witnesses, and taking their present statements as true, I do not see that it would have told in their or the other prisoners' favour, for we must consider it together with the evidence for the prosecution, and the evidence of the witnesses they call to corroborate what they say. These latter are Ragho Yumajee (LXXXIV.), Sideshwur Buhiroo (LXXXVII.), and Prubhakur Venaek (LXXXVIII.); to prove that the arbitration was undertaken at Anundibae's request, and that she signed the razeenama with full knowledge of its contents. Their evidence, doubtful as evidence of this kind always is, even at the best, is inconsistent in their description of the place where the meeting was held, and fails to convince me of the truth of their statements. To prove also Anundibae's having signed the answers to the interrogatories (XLVIII.) with full knowledge of their contents, the witness Wito Chimaajee (LXXXII.) is called, and he deposes to her having agreed to pay interest at 9 per cent. on her dealings with Bapoor Dixit, and to having signed a paper at Ragoonath Shastree's desire to that effect, which Chima attested: all the prisoners, except Sitaram, were present at the time. Now taking the prisoners' own account of the transaction, we cannot fail to be struck by the extreme care they took not to do anything without Anundibae's

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baee's consent, but there still are facts quite irreconcilable with her stories. The three documents XLVI. XLVII. and XLVIII. are all signed by the four witnesses, in the same order; Chintamun Huree first, then Govind Pandoorung, then Govind Shastree, and then Bhasker Govind. Now they purport to be signed on different days; and it is difficult to imagine how Govind Shastree and Bhasker Govind could, according to their own accounts, have been present on all three occasions. But it is also strange that when Anundibae found, which she must have done on the first day, that the arbitrators did not like her dependants as witnesses, that she should have made them attest the documents both on the second and third occasions. It would have been far more natural that only two witnesses should have been secured, and those men agreeable to both parties, than that the arbitrators should have trusted to the remarkable accident that brought Govind Shastree and Bhasker Govind to Anundibae's house on the 26th August and 13th September as well as on the 24th August, or else that they should, before going there, have taken care and have had two men whom they could trust as witnesses. The order of the signatures is also remarkable, for the only document which Chintamun Huree and Govind Pandoorung say they attested on a different day—the wukalutnama to Sitaram (L.)—bears Govind's signature before Chintamun's. It is therefore the more extraordinary, if the other four were likewise signed on three different days, that there should have been no difference in the order of signature. Taking it then as proved, which it is beyond all doubt, that the documents were not signed in the way the prisoners attempt to prove, we have no resource but to accept the evidence for the prosecution as true. The prisoners all admit that they are acquainted with the circumstances under which Anundibae referred this case to arbitration, and that they received it from her in all proper form;

Ragoonath Ramchunder and Huree Gunesh, that they satisfied themselves they were complying with her wishes; Govind Wamun and Bhasker Govind, that they attested the papers at her desire; Balajee Ramchunder, that he wrote all the papers and acted as her Vakeel at her desire.

As regards Sitaram's admission of the award, there is no evidence beyond his own admission. There are no entries on the records of the Adawlut to show who the Vakeels are who represent persons presenting petitions, and the charge must have failed against him had he not admitted (LXXXI.) having acted for Anundibae in the case. The question then arises, was he empowered to do so by Anundibae? She denies it, and neither Govind Pandoorung (LV.) nor Chintamun Huree (XLV.) bears out the idea that Anundibae did authorise him; and though he has called Wamun Wasdeo (LXXXV.) and Balajee Narrain (XC.) to prove his assertion, they certainly do not do so. It is not easy to believe their assertion that Anundibae admitted the wukalutnama and gave orders that the award should be admitted, but it is very certain that they have entirely failed to prove it; and the prisoners having called Mahadajee (VI.) in their defence, he declares that Anundibae never knew of the notice to object to the award received from the Judge, for that he signed the notice, as received for her, at Bapoo Dixit's desire, who took care that he should not read the paper.

The prisoners not denying the transaction, but having failed to prove that the whole proceeding was conducted in proper order, and having shown so many reasons why their account of the transactions, supposing them to have taken place at different times, must be false, the evidence of the conspiracy on their part is complete, for they declare themselves cognisant of all the details as they took place; but it is very evident that they did not take place as

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they assert, and there is no alternative but to believe the account given by the witnesses for the prosecution, that the whole conspiracy was one transaction, and that Anundibae refused to enter upon the case during her father's absence, but that the prisoners, in spite of her objections, forged the necessary documents in her name, and framed an award founded on these false documents. This being established, it would have been unnecessary to have gone into the further questions, whether Bapoo Dixit fraudulently obtained bonds and acknowledgments for larger sums of money under the pretence that it was necessary to pay them to lawyers and Government Officials as bribes, or whether Govind Wamun urged upon Anundibae the necessity of passing these bonds, had it not been that they form part of the charge. The accounts upon which Bapoo Dixit sues (XIII. and XIV.) bear no date; but it appears from the evidence in the case, that, so early as 22nd August 1849 (XCIV.), Anundibae had money dealings with Bapoo Dixit; that, between the 24th March 1850 and the 3rd June 1852, she passed to him six bonds (VII. to XII.) for sums amounting in the aggregate to Rs. 13,625. Of these VIII. and IX., for Rs. 5,000 and Rs. 1,000 respectively, were to cover the amount of four bonds passed to him between the 22nd August 1849 and 9th August 1850, amounting, with interest, to Rs. 5,620-4-0, and for a further sum of Rs. 20-2-6 interest and Rs. 359-13-9 cash. Among the letters, however, of the 12th July 1850 (XVII.), mention is made of bonds having been passed for Rs. 4,000 and Rs. 200, which do not appear in any of the four bonds mentioned in XCIV., and the next day, 13th July 1850, Anundibae is informed (XVIII.) that a bond had been executed on plain paper for Rs. 700. This may be one of those referred to in XCIV., as one is there entered as dated 7th July 1850. Between January and April 1852, Bapoo Dixit, then in Bombay, wrote several

letters to Mahadajee Punt, or Anundibae, relating to the case. These have been filed, XV. to XXXIII. (except XVII. XVIII. and XIX.), and in them he mentions that he has passed bonds to different people, such as Rs. 500 to the Shastree (XXV.) on the 5th February; Rs. 500 to Mr. Howard (XXIX.), 1st March 1852; which bonds do not appear in his account. And lastly, on the 3rd June 1852, there is a bond for Rs. 5,000 for cash borrowed as presents to Vakeels, &c. (XII.), which would appear to be the Rs. 5,000 referred to in his letter (XV.) dated 25th April 1852, Rs. 4,000 of which is said to be paid to two of the Judges of the Sudder, as appears from the deposition of Sitaram Dadajee (LXII.) and Bapoo Dixit's deposition (LXIII.), though in defence he has tried to show that Rs. 1,601 only was paid to Vakeels, and the rest was for expenses in Bombay, at Vuzrabae, and Rs. 1,775 paid to Mahadajee, though even then he admitted that some Rs. 1,000 or so would remain unaccounted for. Between the 26th September 1852 and 30th June 1854 Anundibae passed six more bonds, with Bapoo Dixit as her security (XXXV. to XL.), for Rs. 5,335-9-9 to different Soucars, which, Mahadajee Punt (VI.) states were in place of the other six bonds for Rs. 13,625 (VII. to XII.) which were returned to him as cancelled. It is very certain that no mention is made in these latter bonds of the former bonds being cancelled, and it is difficult to understand how bonds for Rs. 5,335-9-9 could cancel others for Rs. 13,625, when in all former transactions the result of all adjustment was very much to increase the amount.

On the other hand, these bonds are most unsatisfactorily accounted for. Trimbuk Krishn (CII.), who takes two bonds (XXXVI. and XXXVII.) for Rs. 500 and Rs. 400 respectively, keeps no accounts, though he tried to explain them. A bond for Rs. 1,200, also for money borrowed from Bapoo Dixit's brother Sukaram

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(XXXVIII.), was attested by Ramchunder Govind and Krishnajeew Sewram (CV. and CVI.); they were not acquaintances of Anundibae, but Ramchunder going to Sukaram's found Krishnajeew there, and that Sukaram had gone to Anundibae's; they therefore went there after him, and, when there, they were asked to attest this bond; they saw no money pass, but Anundibae acknowledged the receipt of it. The last two bonds, however (XXXIX. and XL.), passed to Dajee Kesow, the former for Rs. 235-7-9, which are specified as Rs. 214-10-0 Sicca and Rs. 20-13-9 Company's, and the latter for Rs. 2,000 money borrowed, Dajee, when called as a witness for the defence (XCIX.), declared were passed in lieu of two bonds formerly passed to his father which he held, but got these in exchange for them, as he would be better able to recover on them. The question of these bonds having been passed is never raised, the only question is, why were they passed? They do not of themselves show that they were passed to raise money to pay off those for Rs. 13,625 due to Bapoo Dixit; but it is equally certain that the prisoner Bapoo Dixit has not been able to prove that they were passed for money received.

The case then, as laid before the Court, shows that there were, between 24th March 1850 and 30th June 1854, two sets of six bonds each, the one amounting to Rs. 13,625, and the other to Rs. 5,335-9-9, against Anundibae, the former due to Bapoo Dixit, the latter due to others with Bapoo Dixit as security. That there is no proof of the money having been paid to Anundibae, for the witnesses to the bonds do not prove it, and the witnesses Davidas (XCI.) and Mahadeo (XCII.) are of no use, as the carriage of the money to which they refer may have been either before or after the year 1852; but even admitting it was before, Bapoo Dixit is only able to obtain evidence to the payment of about

Rs. 1,601 in Bombay, about Rs. 6,513 elsewhere, between the years 1849 and 1852; so that the very utmost he can show is a claim for Rs. 8,114, while there are bonds for more than Rs. 18,000. It is very clear that Bapoo Dixit had the entire management of Anundibae's affairs, and he declares he keeps no accounts; and his daring to have such large money dealings with anybody, and not be able to show the details of his transactions, appear to me highly culpable. In his defence he admits that the best of all his charges are mere approximation to what he spent; and nobody need hesitate in declaring, that, while employed as Anundibae's confidential agent for the management of the dispute between her and Ambabae, he fraudulently obtained bonds and acknowledgments for large sums of money under false pretences, for he has not attempted to prove that the bribes which he says he had to give to the Judges of the Sudder Adawlut and Shastree were ever paid to them; and, this being established, it is hardly necessary to notice that the opportunity he took to bring forward his claim was when Anundibae's father was absent, and she had no one to advise her, excepting him (Bapoo Dixit), to whom she had hitherto looked as her friend and adviser, but was now the plaintiff against her; and I think everybody will admit that the charge is to the fullest established against him.

The prisoners Ragoonath Ramchunder and Huree Gunesh are proved to have passed an award without authority from Anundibae, in whose dispute the award was said to be passed; Govind Wamun and Bhasker Govind are proved to have attested the documents necessary to be passed by Anundibae without her authority; Balajee Ramchunder and Sitaram Sudasew in having acted as her Vakeels without authority; and the prisoners are therefore all found guilty of the conspiracy with which they are charged.

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The Judicial Commissioner having found the prisoners guilty, proceeds, under Section II. Regulation XVII, A. D. 1828, to pass sentence upon them.

You, Bapoo Dixit, Govind Wamun, Ragoonath Ramchunder, Huree Gunesh, Bhasker Govind, Balajee Ramchunder, and Sitaram Sudasew, having been found guilty of conspiracy, the sentence of the Court upon you is, that you, Bapoo bin Sideshwur Dixit, be imprisoned and kept to hard labour for the period of three (3) years, and that you pay a fine of three thousand (3,000) rupees, or be further imprisoned and kept to hard labour for one (1) year.

That you, Ragoonath Ramchunder and Huree Gunesh, be imprisoned and kept to hard labour for two (2) years, and that you each of you pay a fine of three thousand (3,000) rupees, or be further imprisoned and kept to hard labour for one (1) year.

That you, Govind Wamun, Bhasker Govind, and Balajee Ramchunder, be imprisoned and kept to hard labour for two (2) years, and that you each of you pay a fine of five hundred (500) rupees, or be further imprisoned and kept to hard labour for one (1) year.

And that you, Sitaram Sudasew, be imprisoned and kept to hard labour for one (1) year, and that you pay a fine of one hundred (100) rupees, or be further imprisoned and kept to hard labour for one (1) year.

The fines, or any part of them, if paid, to be given to the complainant.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—This is an appeal against a judgment of a Court of Circuit held at Poona for the trial of the petitioners on a charge of conspiracy.

The facts of the case are fully set forth on the record, and, concurring as I do in the justice of the verdict, it is only necessary to notice several objections that have been taken to the sentence on the part of the prisoners.

It has been contended that the conviction rests mainly upon the testimony of the witnesses Nos. 45 and 55, who attested the papers relating to the fraudulent arbitration, and who have exposed their falsehood, and thus the whole plot against the widow Anundibae and her infant son, and that these men, having been concerned in the crime, are virtual accomplices, not to be believed without ample corroboration. If it be allowed that these two witnesses are only to be regarded in this light, we find that their evidence strengthens materially the impression produced by circumstances otherwise proved, and confirms to conviction the strong suspicion against the accused which these circumstances create. It has been likewise objected that Mahadajee Sudasew (witness No. 6), the father of Anundibae, during whose absence the plot against her was carried out, is not to be relied upon, on account of his having some years ago suffered a sentence of imprisonment. Such an objection is not generally tenable, for, if special grounds do not exist for discrediting it, the evidence of a person who has previously been convicted is as good as that of another. As a general rule, the Judge in whose presence the depositions are given must be better qualified to estimate their truth than the Appellate Court, and I do not find in this case any sufficient grounds for differing from the Judicial Commissioner as to the credibility due to either of these witnesses, and for setting aside his decision on this account.

It has been urged also before us that the widow Anundibae virtually admitted the reference to arbitration in the Civil Court, and only objected to the execution of the award on the grounds of the exorbitant interest decreed to be paid, and not on account of its general injustice and fraud; so that she ought not to have been believed when she asserted subsequently, on this inquiry, that she never consented to the arbitration.

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We are not sitting to try the case over again, and objection to Anundibae's testimony should have been made good at the trial, when there was full opportunity afforded; but, putting this aside, we find that the proceedings of the Civil Court show that the transaction was there denounced as fraudulent. Further, if Anundibae had agreed to the reference, no one acquainted with the facts of the case could believe, I think, that she was otherwise than cajoled into such consent, or that any *bond fide* reference to arbitration of such a claim as this was made; much less that the claim itself was admitted to the arbitrators with a show of resistance to the rate of interest only, and that the award was honestly given, and openly admitted by the defendant in Court.

It has likewise been urged upon us that the case has been somewhat hardly pressed against the prisoners, because Judges who have sat in this Court were named by Bapoo Dixit as bribed by him, to account for the expenditure of the large sums out of which it was his plan to swindle the widow and her son, and that these proceedings might not have been heard of had it not been for the 'khutput' connected with it.

I cannot say what might have otherwise come of the case, but Anundibae had denounced the fraud and applied for the criminal prosecution of the offenders in the Court at Poona before the matter was brought forward here, and it is to be presumed that the complaint would not have been neglected by the Zillah Authorities.

When the imputations injurious to the reputation of this Court came to light, the whole matter was laid before Government, by whose direction the parties were proceeded against. It was obvious that the accused would be prompted by the strongest motives of self-interest to reveal the circumstances under which bribes were paid, and to whom they were paid, if there was any truth in the assertion that money had been so expended; and that,

failing any satisfactory explanation of the transactions, a great fraud would be exposed. I do not see that the prisoners have anything to complain of in the course followed. They did not take advantage of the opportunity afforded; accounts were withheld; no satisfactory explanation offered; the very assertions of bribery were denied on trial, although proved to be in Bapoo Dixit's handwriting. The conspiracy to defraud has been clearly proved, and the conspirators have received a merited punishment. I would reject their appeal.

As exception has been taken to Mr. Frere's sitting as one of the Court to-day, I may observe that his presence is in accordance with the procedure laid down in the Regulations; and that, had he been absent, his recorded judgment must have been reckoned a vote in case of difference of opinion. The law is clear on the subject, and both it and the practice of the Court under it in like circumstances would have been set aside had Mr. Frere been excluded.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause for interference with the decision, and the petitions are rejected.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 143 of the Calendar of the Ahmedabad Sessions Court for 1856. Committed by the First Assistant Magistrate, W. A. RITCHIE, on the 17th October 1856. Tried by the Session Judge, A. B. WARDEN, on the 13th, 15th, and 29th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Prisoner.—Dosa Wurshung, Rajpoot, aged 60.

Wilful Murder.

Charge.—Wilful murder; in having, on or about Thursday, 18th September 1856, (corresponding with Bhadrupud Wud 4th, Sumvut 1912,) in the limits of

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AHMEDABAD,
Wilful Murder.

Kochrea village, Dholka Talooka, Ahmedabad Zillah; wilfully, and without justifiable or extenuating cause, deprived of life Muddarshung Rawabhai, by stabbing him in the side with a knife, and occasioning injuries from the effects of which the said Muddarshung Rawabhai died the same day; prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoner pleads not guilty.

A. B. Warden,
Session Judge.

Finding and Sentence by the Sessions Court.—The Inquest Report (No. 3), which has been proved by the evidence of the witnesses Nos. 1 and 2 (Khorajee and Bejul), shows that the deceased died from the effects of a wound inflicted in his side with a knife. From the evidence of witnesses Nos. 4, 5, 6, 9, and 11 (Nana, Bawa, Nurwa, Gugga, and Veesa), it is proved that, on the day in question, they went to Kochrea village in order to mourn for the daughter of Jiwa of Kochrea; after the mourning ceremony was over they adjourned to the village Chowra, where they smoked and partook of some opium. The prisoner at the bar overtook them on their way to Kochrea, and, uninvited, accompanied them to Jiwa's house, and from thence to the Chowra. When the opium was distributed among the party, the prisoner came in for a share; very small pieces were given to each person; so that no one required to use a knife; the prisoner at that time was seated near the feet of the deceased, who was fast asleep; soon after the distribution of the opium there were one or two new arrivals, and all the people in the Chowra, with the exception of the deceased, stood up to receive them; during the confusion that was thus occasioned, the deceased, who was still asleep, was stabbed. The witnesses Nos. 5 and 9 (Bawa and Gugga) have deposed that they distinctly saw the prisoner at the bar, who had risen up with the rest, stoop, and, holding a knife

with both hands, plunge it into the side of the deceased, and then rise up again, still holding the knife in both hands; the other witnesses did not see the prisoner actually inflict the blow, but saw him rise up, holding the bloody knife with both hands, and endeavour to make his escape from the Chowra; but before he could do so, the witnesses Nos. 7 and 8 (Dewkurn and Whalla) seized him, and took the knife from him. These two witnesses (Dewkurn and Whalla), as well as others, viz. witnesses Nos. 5 and 11 (Bawa and Veesa), have deposed that the prisoner, on being seized, pointed the bloody knife at Dewkurn and threatened to stab him, as he had done the deceased Muddarshung. There appears to have been no dispute between the prisoner and the deceased on that day; in fact, they do not appear to have spoken to each other. The question that then arises is, what motive had the prisoner for the perpetration of the deed? From the evidence of witnesses Nos. 4, 5, 6, and 11 (Nhana, Bawa, Vurwa, and Veesa), it is ascertained that the prisoner used to cultivate some land belonging to the deceased, who was a Girassia, but, owing to the prisoner not paying the assessment, the deceased would not permit the prisoner to cultivate the land any longer, and there appears to have been constant disputes with prisoner and deceased about the said land. Prisoner admits having joined uninvited the party that went from his village to Kochrea, but denies having intentionally stabbed the deceased. His story is that he used the knife before the Court to cut the opium (but this fact is disproved by the evidence of the witnesses for the prosecution), and that when he rose up with the rest he tripped and fell over the deceased, and the weight of his body on the knife drove it into the deceased's side. He called several witnesses to prove this; but their depositions, which have been recorded as Nos. 15, 16, 17, 18, 19, 20, 21, 22, and 23, do not bear him out in his assertions.

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After all the prisoner's witnesses had been examined, the prisoner denied all that he had previously stated, and also denied that he knew anything about the knife which has been produced. The Court considers that the evidence clearly proves that the prisoner purposely stabbed the deceased; he is therefore found guilty of wilful murder; in having, on Thursday, 18th September 1856, (corresponding with Bhadrupud Wud 4th, Sumvut 1912,) in the limits of Kochrea village, Dholka Talooka, Ahmedabad Zillah, wilfully, and without justifiable or extenuating cause, deprived of life Muddarshung Rawabhai, by stabbing him in the side with a knife, and occasioning injuries from the effects of which the said Muddarshung Rawabhai died the same day.

After taking into consideration the nature of the offence proved against you, prisoner Dosa Wurshing, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXVI. Clause 4th, of 1827, the sentence of the Court is, that you be hung by the neck until you be dead, at the usual place of execution at Ahmedabad. This sentence is, however, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—In this case it is not to be doubted that deceased was stabbed by the prisoner, who admitted the fact, alleging that the wounding was accidental. I think it is also to be concluded that deceased died from the wound given by prisoner. . . Eight witnesses depose to the stabbing having been purposely committed by prisoner, and there is evidence to a quarrel regarding some land of which deceased had deprived prisoner; it is alleged, however, that no dispute occurred on the occasion of the wounding, and that the prisoner and deceased had not spoken to each other. From this it would have to be inferred that the murder was premeditated.

It is not probable that the prisoner, intending to kill deceased, chose an occasion when from thirty to forty persons were present to witness it, and I am forced to the conclusion that a quarrel did occur, and that in it the deceased was stabbed. The prisoner, in his statement before the Magistrate, which he admitted in the Sessions Court, avers that he appealed to the assembly regarding the dispute between himself and deceased, and that, at the time, the foot of deceased, who was lying down, accidentally struck against his, and that he fell over him. I cannot believe that the wounding was accidental, but must give the prisoner the benefit of the doubt I feel as to the murder having been premeditated, and would, in confirming the conviction, sentence the prisoner to transportation for life.

It was an omission not to have taken the deposition of the deceased.

Minute by Mr. Keays.—There are no less than five persons who depose that they were eye-witnesses of this most cold-blooded murder. Three of them saw the prisoner, who was sitting near Muddarshung when he was asleep, stoop down and plunge the knife into the deceased's body; the other two saw the prisoner, on their attention being attracted by Muddarshung's cries, rising up and pulling the knife out of the wound. That enmity existed is admitted by the prisoner himself, and it is in evidence that the prisoner, after having committed the deed, endeavoured to escape. Prisoner first of all asserts that the deceased was accidentally wounded by his tripping over the deceased's foot in the confusion of receiving the new visitors and falling on his body; and, after calling a number of witnesses to prove this fact, the prisoner denies the story altogether, and says he knows nothing at all about the matter. I have not the slightest doubt of the prisoner's guilt, and am prepared to confirm the conviction.

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ing Puisne Judge.

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Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and prisoner sentenced to transportation for life.

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Security Bond
for Appearance.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges,
 { ROBERT KEAYS, }

[Petition of Bhowaneeshunkur Doolubhram to the Sudder Foujdaree Adawlut. Referred for Report to the Magistrate of Ahmedabad, J. W. HADOW, on the 10th December 1856.]

[See pages 655 to 663, Vol. VI. of 1856, for former proceedings in this case.]

Petition of Bhowaneeshunkur Doolubhram to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Ahmedabad, requiring security from him, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report as to whether the security bond taken from petitioner had been cancelled or not.]

Return by the Magistrate.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to report that the security bond, which was for the attendance of petitioner to answer to a charge of perjury, as well as conspiracy, had not been cancelled, owing to the former charge not having been disposed of; the delay in its disposal having been owing to the continued absence of petitioner, who could not, as reported by Mr. Ritchie, be found within this jurisdiction, having proceeded, it appears, to a 'jatra' at Umbajee; his security having been called upon to produce petitioner, and allowed a given time to do so, at last produced him, when certain witnesses were sent for, who could not be found: one had been reported dead, and the evidence of the other not being considered sufficient by itself, Mr. Ritchie reports that he has disposed of the case.

The security bond has therefore been cancelled, and petitioner informed accordingly.

The original petition is herewith returned, as directed.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The security bond having been cancelled, as stated by the Magistrate, no further order in regard to it is required. But the Magistrate is to be requested to explain the date of the disposal of the case, and how he reported, on the 14th October last, that all the cases against the petitioner and others had been disposed of several months previously, and that they had been permitted to return to their homes.

Return by the Magistrate.—In reply to the Court's Precept No. 19, dated 8th January 1857, the Magistrate has the honour to report that the First Assistant Magistrate was instructed by the Magistrate to put Bhowaneeshunkur on his trial on a charge of perjury, for having, in the course of his examination as a witness, made, on solemn affirmation, two statements diametrically opposed to each other, and one of which he admitted to be false, should the evidence be considered sufficient for conviction.

After a delay of some months, caused by the absence of Bhowaneeshunkur, who had left the Zillah, and two witnesses who could not be found, Mr. Ritchie reported, on the 17th December 1856, that owing to the death of one of the witnesses, and the denial of Bhowaneeshunkur (who had meanwhile been produced by his security) that he had made the statements which appeared in his deposition, he was of opinion the charge could not be proved, and dismissed the case.

The omission on the part of the Magistrate to notice this case, as one remaining to be disposed of in the Return, dated 14th October last, made to the Court's Precept to which the Judges refer, occurred through an oversight on the part of the establishment in the Magis-

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trate's Office, to inform the Magistrate that the disposal of this case had not been reported up to that time by the First Assistant Magistrate, though he had informed the Magistrate that he had given permission to all the parties (Bhowaneeshunkur being one) to return to their homes.

From the date of the disposal of the cases of conspiracy in May 1856, reported to the Judges by the Magistrate on the 23rd June following, all the parties concerned (among them Bhowaneeshunkur) had been allowed to return to their homes, as reported by the Magistrate; the security bond in Bhowaneeshunkur's case had not, however, been cancelled, no decision having been come to in the perjury case.

Resolution of the Sudder Foujdaree Adawlut.—It is to be hoped that more care will be displayed in future, and this may be recorded.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Bechur Thakursee to the Sudder Foujdaree Adawlut. Referred for Report to the Magistrate of Ahmedabad, J. W. HADOW, on the 10th December 1856.]

[See pages 655 to 663, Vol. VI. of 1856, for former proceedings in this case.]

Petition of Bechur Thakursee to the Sudder Foujdaree Adawlut.—[Praying that security and recognisance bonds, taken from him for appearance, might be cancelled.]

Recognisance
Bond for Appearance.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report as to whether the security bond and 'moochulka,' taken from petitioner, had been cancelled or not.]

Return by the Magistrate.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour

to report, that the security bond which the petitioner was called upon to furnish has been cancelled, consequent on the disposal of the case of conspiracy, and that the petitioner was informed by this Department to that effect on the 14th July last.

The recognisance bond has not been cancelled ; the object of requiring the petitioner to enter into his own recognisance was that he should refrain himself from meddling with the affairs of the Thakoor of Sanund, as explained in the Magistrate's return to the Court's Precept dated 10th October 1855. The original petition is herewith returned.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Court concluded from the Magistrate's return, dated 14th October last, that the whole of the cases against the petitioner and others who complained with him had been disposed of. From the present return, however, it appears that the Magistrate has not cancelled a recognisance bond taken from the petitioner in order that he should refrain "from meddling with the affairs of the Thakoor of Sanund until final disposal is made of certain matters connected therewith." The Magistrate is now to be required to certify the recognisance bond, and to explain what further inquiry is alluded to, and what authority he possesses to prevent the Thakoor employing the petitioner, if so disposed.

Return by the Magistrate.—In reply to the Court's Precept No. 18, dated 8th January 1857, the Magistrate has the honour to state, that when he reported the disposal of certain charges which had been brought against the persons who had complained to the Court of their detention by the Magistrate, there was no charge against Bechur Thakursee remaining to be disposed of.

As regards the recognisance bond demanded from Bechur Thakursee, the Magistrate having already explained in his reply to the Court's Precept No. 957,

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dated 10th October 1855, the circumstances which, in the Magistrate's opinion, rendered the adoption of this precautionary measure advisable, concluded, from no final order having been received as regards this case, that the Judges were satisfied with the explanation which had been given, and found no reason to interfere.

The recognisance, having now been called for, is herewith certified; and, in further explanation on the points noticed in the extract from the proceedings of the Court, the Magistrate has the honour to state, for the information of the Judges, that Bechur Thakursee has for years past been one of the chief fomenters of the disputes between the wives of the Thakoor of Sanuud and between the Thakoor and his Karbharees,—disputes which have occupied so much of the time of the Magistrate and his predecessors to little purpose, as they are still going on, with every prospect of fresh ones arising, in consequence of the jealousy and rivalry still existing between the two wives, and the enmity between their relations and partisans.

The chief matters connected with the Thakoor's affairs, to which reference is made in the recognisance bond, were the disputes between the Thakoor's elder wife and his second wife, regarding the alleged pregnancy of the former, which the latter denied: and, subsequently, the alleged birth to the former of a child, the parentage of whom the Thakoor, at the instigation of the second wife and other persons, among them Bechur Thakursee and Bhowaneeshunkur, had been induced also to deny. The reputed mother of the child died shortly after the examination she had been subjected to at her father's house, near Sadra, in the Mahēe Kanta, to ascertain whether she had given birth to a child; but the boy is still alive, and in the charge of the relations; and unless it be decided by Government that the child is either illegitimate or was not born to the mother, it may be years before

the dispute is settled, one way or other, by the Civil Courts.

Meantime it has been reported to the Magistrate that the Thakoor, at the instigation of those by whom he is influenced, has consented to a plot, the object of which is to obtain a boy to be passed off in due course of time as a son born to the elder of his two wives, who for the purpose is about to proceed to Palitana, where her relations reside. The Magistrate, foreseeing that in the event of her doing so there will be fresh disputes and a renewal of charges brought by one party against the other, is of opinion that she should not be allowed to proceed to Palitana at all until it be ascertained whether or not she is in the state described; but possibly the Judges may consider he has no authority to prevent her.

In the case of Béchur Thakursee, the Magistrate is of opinion that he should not be allowed to enter the employ of the Thakoor in any situation, as the Thakoor had himself complained years ago of his conduct, and had dismissed him from his service. He had renewed his intrigues, and, as has already been reported, was one of the chief fomenters of the disputes between the wives and their relations, which are still going on; and, under these circumstances, the Magistrate conceives he has authority to adopt precautionary measures with a view to prevent, as far as is within his power, the state of things above described, and trusts that the Judges will, on a reconsideration of what has been explained on different occasions by the Magistrate as regards the affairs of the Sanund Thakoor, be pleased to sanction the continuance of the recognisance taken from Béchur Thakursee as long as the occasion may require.

Resolution of the Sudder Foujdaree Adawlut.—The recognisance bond complained of binds the petitioner to refrain from visiting the two villages Sanund and Kote, also from interfering in any affair of the Thakoor

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of Sanund, or mixing himself up in any dispute on the part of the Thakoor, and that he will behave reasonably.

The grounds stated by the Magistrate for requiring it are, to prevent disputes in the family of the Thakoor of Sanund, which he believes the petitioner to foment.

The Court do not consider that the acts forbidden come within the category of those which the Magistrate has authority by law to forbid.

The bond is to be cancelled.

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AHMEDNUGGUR.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 8 of the Criminal Return of the Magistrate of Ahmednugur for September 1856. Tried by the District Deputy Magistrate, KRUSHNAJEE WASOODAVE, on the 30th August and 1st and 2nd September 1856. Confirmed by the Magistrate, C. E. F. TYTLER, on the 11th September 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner Bapoo wulud Bajee.]

Robbery by Night,
without Force.

Prisoners.—No. 1, Byjee, daughter of Toolsiram, Beldar, age 13.

2, Jankee, wife of Bala, Beldar, aged 25.

3, Zingee, daughter of Gungaram, Beldar, aged 16.

4, Bhugwunta wulud Toolsiram, Beldar, aged 22.

5, Luximee, wife of Toolsiram, Beldar, aged 35.

6, Mata Chuturdas, Byragee, aged 50.

7, Bapoo wulud Bajee, Koonbee, aged 40.

Charge.—The prisoners Nos. 1, 2, 3, and 5 are charged

with robbery by night, without force (Regulation XIV. of 1827, Section XXXVI. Clause 1st); in having, on the morning of the 19th August 1856, (corresponding with Shrawun Wud 4th, Shuké 1778,) at the village of Pimpre, Lowki Ajumpoor, Talooka Sun-gumnair, in the Zillah of Ahmednuggur, stolen a bag containing property, consisting of silver ornaments, &c., of the estimated value of Rs. 7-12-0, and Rs. 200 in cash, of different currencies, amounting in the aggregate to Company's Rs. 201-14-0, the same belonging to the complainant Dharo wulud Bholaram. And again, prisoners Nos. 1 to 7 are charged, under Regulation XIV. Section XLI. Clause 1st, with receiving stolen property, knowing, or having evident grounds for suspecting such to be stolen, viz. prisoners Nos. 1 to 5, in having, at the same time and place, received from each other the whole of the stolen property, amounting to Rs. 201-14-0; prisoner No. 6 having received a part of it, of the value of about Rs. 194-4-1, from prisoners Bhugwunta and Luximee (Nos. 4 and 5) on the aforesaid morning; and prisoner No. 7 (Bapoo) having received about Rs. 194-3-7 from prisoner No. 6 (Mata) on the next day, at the village of Kulus, in the Ankola Talooka of the Ahmednuggur Collectorate.

Prisoners Nos. 1, 2, 3, and 5 plead not guilty to first count.

Prisoners Nos. 1, 4, and 5 plead guilty to second count.

Prisoners Nos. 2, 3, 6, and 7 plead not guilty to second count.

Finding and Sentence by the District Deputy Magistrate.—On a review of the particulars of this case, it appears that the complainant, together with the prisoners Nos. 1 to 5 (Byjee, Jankee, Zingee, Bhugwunta, and Luximee), are living in one and the same house, without partition walls. The property stolen from the complainant was kept in a basket, out of which it was taken;

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and the entire stolen property was found in the possession of some of the abovenamed prisoners.

Prisoners Nos. 1 and 2 (Byjee and Jankee) were the two persons concerned from the beginning in this robbery. They implicate one another for stealing the property, but from their statements (recorded Nos. 13 and 14), and from the depositions of the witnesses Nos. 4, 5, 6, and 7, it is evident that both of them were present at the robbery, which was perpetrated by them in concert, and that they confessed to the crime, and produced sundry articles forming part of the stolen property. Prisoners do not state anything as to their premeditations, nor is there any proof to that effect, but merely assert that they saw the property when looking for a stone (to fasten the handle of their grinding-stone); and this, considering the manner of their living, is likely enough. From all this the charge of robbery is proved against them, and they are, in accordance with Regulation XIV. of 1827, Section XXXVII. Clause 4th, sentenced as follows:—

Prisoner No. 1 (Byjee) is sentenced to six (6) months' imprisonment with labour. She saw the property in the first instance, but it is clear that she committed the robbery with the aid and encouragement of others. So she is not held to be the principal in the matter.

Prisoner No. 2 (Jankee) is older than prisoner No. 1, and is consequently considered to be the principal perpetrator, and sentenced to nine (9) months' imprisonment with hard labour.

Prisoner No. 3 (Zingee) was present at the place of robbery, which might have occurred unknown to her, as no force was used in its perpetration. Prisoners No. 1 (Byjee) and No. 2 (Jankee) stated that the property which they brought out of the house was found in her (Zingee's) clothes, but when the search was going on Zingee was absent, and the Police at the door while the

prisoners Nos. 1 and 2 (Byjee and Jankee) were bringing out the property, said that it was found in Zingee's clothes; this fact gives rise to suspicion (inquiry into this has been instituted). Zingee now retracts her statement, which she made before the Foujdar and the Police Amuldar, in which she acknowledged that she was present at the time of the robbery; no reliance can be placed on her conflicting statements: she is, for want of sufficient evidence, discharged.

Prisoner No. 4 (Bhugwunta) is convicted on his own statement, and the evidence adduced, of receiving stolen property, and is, in accordance with Regulation XIV. of 1827, Section XLI. Clause 1st, sentenced to six (6) months' imprisonment with hard labour.

Prisoner No. 5 (Luximee) stands charged on two counts, viz. robbery and receiving stolen property. As regards the former count, she was present at the time of robbery, and, being the mother of the prisoner No. 1 (Byjee), there is much ground to suspect that the robbery must have been committed with her concurrence, but there being no sufficient evidence of this she is acquitted on that charge; while the latter offence is, from her statement (No. 17), and the evidence produced, sufficiently brought home to her. Her greater experience, and her making her two children (prisoner Nos. 1 and 4, Byjee and Bhugwunta) participators in the crime, tell against her; and she is therefore, agreeably to Section XLI. Clause 1st, Regulation XIV. of 1827, sentenced to nine (9) months' imprisonment with hard labour.

Prisoners No. 6 (Mata Byragee) and No. 7 (Bapoojee Patel), having been convicted on their own confessions (Nos. 18 and 19), and the evidence adduced, are, agreeably to the provisions of the Regulation quoted above, sentenced as follows:—

Nos. 6, (Mata Byragee), being old, to be imprisoned for six (6) months without hard labour.

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AHMEDNUGGUR. No. 7. (Bapoo) to undergo six (6) months' imprisonment with hard labour.
Subject to the confirmation of the Magistrate.
Robbery by Night, Confirmation by the Magistrate.—The sentence on without Force. prisoners Nos. 1, 2, 5, and 7. is confirmed, while that of C. E. F. Tytler, the prisoner No. 6 is mitigated to three (3) months' imprisonment.
Magistrate.

The prisoner No. 4 cannot be convicted on the ground of his having accompanied his mother to the village of Kulus, and having seen the property in her possession; he is therefore discharged.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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NASSICK. *Present,* { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }
[Case No. 13 of the Criminal Return of the Magistrate of Ahmednuggur for November 1856. Tried by the Assistant Magistrate, S. M. PELLY, on the 7th and 8th November 1856. Confirmed by the First Assistant Magistrate in Charge, F. S. CHAPMAN, on the 13th November 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner Ranoo wulud Baloojee.]
Prisoners.—No. 1, Oomea wulud Ranoo, Kolee, aged 25.
2, Ranoo wulud Baloojee, Kolee, aged 50.

Attempting to
commit Robbery
by Night, with
Force.

Charge.—Attempting to commit robbery by night, with force (Regulation XIV. of 1827, Section XXXVI. Clauses 1st and 3rd, and Section I. Clause 2nd); they having, on the night of 1st November 1856, (Mitee Kartik Shood 3rd, Shuké 1778,) at Nassick, Talooka Nassick, Zillah Ahmednuggur, made a hole in the wall of the house belonging to complainant, Nurseedas wulud Teekumdas,

and removed the fastening of a window, with the intention of entering the house and committing robbery.

The prisoners plead not guilty.

Finding and Sentence by the Assistant Magistrate; confirmed by the First Assistant Magistrate in Charge.—The prisoners are accused of attempting to commit robbery by night, with force. The evidence in the case is as follows:—Two Police Sepoys (witnesses Nos. 4 and 5) were going their rounds, when they heard, near complainant's house, the sound of some one falling from a height. It was very dark, but upon feeling about with their sticks they came in contact with one of the prisoners, who immediately attempted to escape. After a prolonged struggle, in which the Sepoys were assisted by two men (witnesses Nos. 6 and 7), the prisoners were eventually captured. A stick and sharp iron spike about eighteen inches long were found in their hands. The next morning, upon examining the premises, it was found that a hole, large enough to admit a man's hand, near a window, some height from the ground, had been made in complainant's wall, and the marks on the detached pieces of brick, as also in the wall itself, were such as would have been produced by the iron spike.

In their defence before the Joint Police Officer, both prisoners confessed that they had left their homes with the intention of committing a robbery, but that they had not done so, and were returning quietly home, when they were apprehended. Before the Assistant Magistrate, however, though they admitted that they had made such statements before the Joint Police Officer, they said that the statements were not true; that the real fact was that they were returning from the Satpoor jungle, and going home, when the Peons seized them and made them prisoners. They have no proof to support this defence.

In the opinion of the Assistant Magistrate this last defence has been devised since the prisoners were arrested

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Attempting to
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S. M. Pelly,
Assistant Magis-
trate.

F. S. Chapman,
First Assistant
Magistrate in
Charge.

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and gave their first statements, and after they had had an opportunity of consulting together and deciding upon what they should say. Had it been true, they would have given it in the first instance; or, had what was written down by the Joint Police Officer not been what they really did say, they would not have acknowledged that it was so before the Assistant Magistrate. Again, had they been innocent people, returning, as they say, to their homes, they would not have made any resistance to the Peons who arrested them, still less would they have shown such determined and prolonged opposition as, from the evidence, there is no doubt they displayed.

The Assistant Magistrate considers that both prisoners are guilty of the charge brought against them.

Prisoner No. 1 (Oomea) is sentenced, under Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section I. Clause 2nd, to undergo six (6) months' imprisonment, with hard labour, in the Nassick Jail.

Prisoner No. 2 (Ranbo), being an old offender, deserves heavier punishment, and he is, therefore, under the above Regulation, Sections, and Clauses, sentenced to undergo nine (9) months' imprisonment, with hard labour, in the Nassick Jail.

Both prisoners are, respectively, on release, to furnish security to the amount of Rs. 100, commutable to one year's imprisonment without labour, that they will not commit, or attempt to commit robbery, or any other penal offence, for the next three years. If either of them cannot give the required security, he is to be imprisoned (Regulation XII. of 1827, Sections XXV. and XXVII. Clause 1st).

The above sentences are, under Act IV. of 1830, Clause 3rd, subject to the confirmation of the Magistrate of Ahmednuggur.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 159 of the Calendar of the Dharwar Sessions Court for 1856.
 Committed by the First Assistant Magistrate, S. ST. J. GORDON,
 on the 10th November 1856. Tried by the Session Judge, A. W.
 JONES, on the 1st, 2nd, 9th, and 10th December 1856. Proceedings
 submitted to the Sudder Foujdaree Adawlut, for confirmation.]

DHARWAR.

Prisoner.—Bhurma Oomuchgee bin Chundapa, Jain, Wilful Murder.
 aged 18.

Charge.—Murder (Regulation XIV. of 1827, Section XXVI. Clause 1st); in that, in the town of New Hooblee, in the Hooblee Talooka, in the Dharwar Division and Zillah, in the public road, near the shop of Pruthun Shetee Pursapa, on Thursday, the 6th November 1856, (corresponding with Kartik Shood 9th, Shuké 1778,) at about 3 P. M., he (the prisoner) wilfully, and without justifiable or extenuating cause, did fire a loaded pistol at Kenchapa bin Timapa Malgutee, the ball from which took effect on the left side of the buttock, and inflicted a wound, of which the said Kenchapa died on the 9th November 1856, at 1 or 2 A. M.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with wilful murder, and pleads not guilty. A. W. Jones,
 Session Judge.

On Thursday, the 6th of November 1856, a person named Ningapa came into Hooblee to buy a small metal vessel, and meeting Nubee Saheb, a Shetsundee of his village, was taken by him to the shop of Kenchapa Malgutee to procure it, and it was bought there, when, in order to test its weight, they went to another shop not far off, and, finding it was not exactly the weight it ought to be, they went back to Kenchapa, and seeing him go to the shop of one Sirsuna, his son-in-law, they went to him there and asked him to weigh it again, which he agreed to; and asked his son-in-law to do so; while this person was adjusting the scales, Ningapa and

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his friend sat down on the 'chubootra' of the shop, and just then they saw the prisoner, with his 'dhotur' completely wrapped round him, come up from behind them (his house is on the opposite side of the way), and, when close up to Kenchapa, they saw him pull out a pistol from under his dhotee and fire it at Kenchapa, whose back was turned towards him.

This was also seen by the witnesses Sirsuna, the son-in-law of the deceased, who was employed in weighing the metal vessel as described above, and Kabojapa, who was in the shop at the time; and also by two persons (witnesses Nos. 10 and 11) who were sitting at the shop opposite to Sirsuna's; and the witness Godapa, a tailor, who was sitting sewing at Sirsuna's shop, heard the report of the shot, and, looking up, saw the clothes of Kenchapa burning, and the prisoner running away.

The prisoner was pursued down the street by Sirsuna, Kabojapa, Nubee Saheb, and the witnesses Nos. 10 and 11; but, before they could catch him, a man named Goorapa, who was coming up the street, hearing their cries, caught hold of the prisoner's dhotee and threw him down, and, on his attempting to get up and make off again, seized him, while a Sepoy, who happened to be on the spot, also gave his assistance in arresting him, and took the pistol from his hand, and Sirsuna and Kabojapa with some difficulty forced from him a small dagger which he had unsheathed in his left hand. In doing so they were both slightly cut in the hand, and they were probably not very gentle in the way in which they took this weapon from the prisoner, so that it is very likely he may have got some slight wound at this time, which would account for the cut in his arm when first arrested, which is alluded to by the Police Amuldar of Hooblee.

The prisoner was then taken to the Kutcheree, where, on being searched, some powder and ball, &c. were found on him.

The deposition of Kenchapa Malgutee was taken in the presence of the prisoner, and he therein declared the prisoner had shot him. He did not, however, then think he was in any danger; but it seems that in the evening of the 8th November he was taken into Dharwar, where he was seen by Mr. Carvalho, the Apothecary of the Civil Hospital, who stated that at that time there was no possibility of saving his life, as the ball had apparently lodged in the abdomen, and mortification had already begun; accordingly, he was taken back to Hooblee, and died in the course of the night, or the next morning very early.

The Inquest Report, proved before the Court, shows that the deceased had died from a shot-wound in the back.

The prisoner's defence is a denial of the charge, and an assertion that he was beaten, and that it was an accident; but until the close of the trial he did not even offer to prove this. His Vakeel also contends that there is no motive shown for the crime, which could only have been committed on some great provocation; and it is true that the motives assigned by the deceased in his deposition, and by his friends in theirs, seem singularly inadequate as a cause for such a crime; but, as the prisoner is proved to have deliberately shot the deceased, it is not necessary to prove any particular enmity. And the Session Judge considering the evidence clearly proves the crime against the prisoner, he is convicted of wilful murder; in that, in the town of New Hooblee, in the Hooblee Talooka, in the Dharwar Division and Zillah, in the public road, near the shop of Pruthun Shetee Pursapa, on Thursday, the 6th November 1856, (corresponding with Kartik Shood 9th, Shuké 1778,) at about 3 P. M., he (the prisoner) wilfully, and without justifiable or extenuating cause, did fire a loaded pistol at Kenchapa bin Timapa Malgutee, the ball from which took effect on the left side of the buttock, and inflicted a wound of

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which the said Kenchapa died on the 9th November at 1 or 2 A. M.

And after considering the nature of the crime committed,* and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed:—

That you, Bhurma Oomuchgee bin Chundapa, be taken to the common place of execution at Dharwar, and there be hanged by the neck till you are dead. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for the confirmation of the Judges of the Sudder Foujdaree Adawlut, counterpart of my proceedings in the above case, wherein Bhurma Oomuchgee bin Chundapa has been convicted of wilful murder and sentenced to death.

The Assistant Magistrate mentions his regret at not having sent for medical assistance to Dharwar in the first instance, when applied to on the subject by the friends of the deceased; but I do not think he was called on to do so in this case. The deceased was a wealthy man, and the expense of the journey to Dharwar in a palanquin, could therefore have been no object; and as no danger was apprehended at first, there was no reason why he should not have attended to the Assistant Magistrate's advice to go there at once; and wherever the bullet may have lodged, the mere fact that it was still in his body ought to have convinced Kenchapa and his friends of the necessity of obtaining European medical aid.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I think the Session Judge was right in not delaying the trial, and taking the evidence of the witnesses the prisoner's Vakeel only mentioned on the last day of the trial; for though there is nothing in the Regulations to prevent his doing so should good grounds be shown,

common sense alone would show that a case otherwise completed is not to be adjourned because the prisoner at the last moment says he has witnesses to call.

It would, however, be desirable that the Session Judge should ascertain the witnesses' names and the points to which their evidence would tend, in order, should the Sudder Foudaree Adawlut wish to know what they could depose to, their statements might be procured. It is not even suggested in his petition to this Court, nor by the Vakeels, that the witnesses have anything to say in prisoner's favour, except that they will show that prisoner had been assaulted; but that would not justify his deliberately shooting the deceased, as he is shown to have done, and the conviction must be confirmed. All I can see to lead me to mitigate the sentence is, that medical aid, as applied for, was not furnished. We cannot tell what effect it might have had on the case, and I would not therefore confirm the capital sentence, though nothing can reduce the crime from what the Session Judge holds it to be—murder.

Minute by Mr. Harrison.—I see no grounds for doubting that the deceased in this case was shot by the prisoner, and that he died from the wounds so inflicted.

The only question is as to the sentence to be recorded upon these facts. The act of firing at deceased was done openly, before many witnesses. What has been urged in regard to it is, that the discharge of the pistol must have been accidental, for one intending to kill would have aimed at a more vital part. The prisoner, however, deliberately fired a bullet into the body of deceased, and he is responsible for all the consequences of that act. It can, I think, be only justly concluded that the death of the deceased was the consequence of the bullet wound. There are on the record no extenuating circumstances; no provocation, such as would reasonably account for the prisoner's act, is brought forward. The Assistant

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Magistrate states that it was the common opinion of the town, when this deed occurred, that the prisoner shot deceased in revenge for his intrigues with the females of his family; but that no evidence to the fact could be obtained. It is not likely, if this is the case, that evidence to it could be produced, or that the prisoner would himself adduce it in defence. But the open way in which the deceased was shot is in accordance with the notion that the deed would be held justifiable by many who witnessed it, and to whom the provocation was matter of notoriety.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and prisoner sentenced to transportation for life.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 8 of the Criminal Returns of the Magistrate of Ahmednuggur for October 1856. Tried by the Assistant Magistrate of Nassick, S. M. PELLY, on the 3rd, 4th, and 6th October 1856. Confirmed by the First Assistant Magistrate in Charge of Ahmednuggur, F. S. CHAPMAN, on the 14th October 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner Rugoonath wulud Bhavoo.]

Robbery by Night,
with Force; and
Receiving Property
which they
knew, or had
good reason to
believe had been
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Prisoners.—No. 1, Rugoonath wulud Bhavoo, Purdese, aged 20.

2, Gunoo wulud Kudwa, Tambut, aged 20.

3, Madoo wulud Purushram, Malee, aged 15.

4, Runnath wulud Kanoo, Sonar, aged 18.

5, Chimkea wulud Anajee, Telee, aged 28.

Charge.—Robbery by night, with force (Regulation

XIV. of 1827, Section XXXVI. Clauses 1st and 3rd); they having, on the 11th September 1856, (Mitee Bhadrupud Shood 12th, Shuké 1778,) at Nassick, Talooka Nassick, Zillah Ahmednuggur, broken off the lock of the house belonging to Bhowanee wulud Ballajee, and having entered therein, stole therefrom gold, some impure silver wire, copper and brass utensils, cloth, &c. to the value of Rs. 47-2-11.

Prisoners Nos. 1, 2, 3, and 5 plead not guilty.

Prisoner No. 4 pleads guilty.

* * * * *

From a consideration of the evidence above recorded, it appears that prisoner No. 1 (Rugoonath wulud Bhavoo) and prisoner No. 3 (Madoo wulud Purushram) ought to have been charged with a second offence in connection with the robbery, viz. that they received property which they knew, or had good reason to believe had been stolen; they are therefore called before the Court, and, under Regulation XIV. of 1827, Section XLI. Clause 1st, charged with receiving property which they knew, or had good reason to believe had been stolen; they having, prisoner No. 1 on the 13th September 1856, (Mitee Bhadrupud Shood 14th, Shuké 1778,) and prisoner No. 3 on the 12th September, (Mitee Bhadrupud Shood 13th, Shuké 1778,) at Nassick, Talooka Nassick, Zillah Ahmednuggur, received, out of the property stolen from complainant, each as follows:—

Prisoner No. 1, some brocade, &c., value Rs. 30-8-0.

Prisoner No. 3, brass pots, &c. to the value of about Rs. 12-8-11.

Prisoner No. 1 pleads not guilty.

Prisoner No. 3 pleads guilty.

Finding and Sentence by the Assistant Magistrate; confirmed by the First Assistant Magistrate in Charge.

—From a careful consideration of the evidence adduced in this and the preceding three cases, it appears that

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sistant Magistrate.
F. S. Chapman,
First Assistant
Magistrate in
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the prisoners are respectively implicated in the four robberies as follows :—

Prisoner No. 1 (Rugoonath wulud Bhavoo) is clearly shown in Case 39 to have had in his possession some of the property stolen from Bhowanee wulud Ballajee. There is not sufficient legal proof to convict him of having been actually concerned in the robbery, but there can be no moral doubt that he was a participator in the crime, and that he acted as a sort of decoy to the unsuspecting complainant. A verdict of guilty on the charge of receiving stolen property is recorded against him.

Prisoner No. 2 (Gunoo wulud Kudwa) is accused of being concerned in the robbery of Bhowanee wulud Ballajee's house. There is, however, no proof, beyond the statement of his fellow prisoner (No. 4), to show that he was so engaged. By his own showing, as well as other testimony, he was guilty of the robberies with which he was charged in Cases 36 and 38. A verdict of guilty has already been recorded in these two cases, and they are only alluded to here as punishment was postponed till all the cases in which he was concerned were terminated. In Case 39 he is not guilty:

Prisoner No. 3 (Madoo wulud Purushram) has already been found guilty of robbery with force in Case 37. From the proceedings in Case 39 there can be no doubt that he had in his possession some of the property, which he must have been well aware was stolen from the complainant. There is not sufficient proof to convict him of the robbery, but a verdict of guilty is recorded on the 2nd charge, viz. that of receiving property which he knew, or had good reason to believe had been stolen.

Prisoner No. 4 (Rungnath wulud Kanoo) pleads guilty to the robberies with which he is charged in Cases 37 and 39. In the former, a verdict of guilty was recorded, and it now only remains to record a verdict of guilty in Case 39 also.

Prisoner No. 5 (Chimkea) is accused of being concerned in the robbery of Bhowanee wulud Ballajee. There is not, however, sufficient legal proof to convict and punish him on this charge, though there is quite enough to make it appear highly probable that he was engaged in it. A verdict of not guilty is recorded.

The four first prisoners having individually been shown to be guilty to the extent shown above, punishment is awarded to each as follows :—

Prisoner No. 1 (Rugoonath wulud Bhavoo) is sentenced, under Regulation XIV. of 1827, Section XLI. Clause 1st, to undergo six (6) months' imprisonment, with hard labour, in the Nassick Jail. On release he is to find security to the amount of three hundred (300) rupees, commutable to eighteen (18) months' imprisonment, that he will be of good conduct for the space of three (3) years. Failing to give the required security, he is to undergo imprisonment for such time within the three years as he may be unable to furnish it.

Prisoner No. 2 (Gunoo wulud Kudwa) is sentenced, under Regulation XIV. of 1827, Section XXXVII. Clauses 3rd and 4th, to undergo twelve (12) months' imprisonment, with hard labour, in the Nassick Jail, and, on release, to give security too in the same manner and under the same penalties as prisoner No. 1.

Prisoner No. 3 (Madoo wulud Purushram) is sentenced, under Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XLI. Clause 1st, to undergo twelve (12) months' imprisonment, with hard labour, in the Nassick Jail, and on release to furnish security as specified for prisoner No. 1.

Prisoner No. 4 (Rungnath wulud Kanoo) is sentenced, under Regulation XIV. of 1827, Section XXXVII. Clause 3rd, to undergo twelve (12) months' imprisonment with hard labour, in the Nassick Jail, and on release to furnish security as specified for prisoner No. 1.

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Prisoner No. 5 (Chimkea), having been acquitted, is discharged, but ordered to furnish security for future good conduct as specified for prisoner No. 1.

The above sentences are, under Act IV. of 1830, subject to the confirmation of the Magistrate of Ahmednuggur.

The orders for security are given under Regulation XII. of 1827, Sections XXV. and XXVII. Clause 1st.

The above sentences may appear somewhat severe; but it should be borne in mind that Case 39 is the last of a series of four cases in which one or more of the accused parties were implicated. All the prisoners are young men, who seem to have formed themselves into a sort of thieving society, and to have carried on their business by day as well as by night, for some time, with impunity, until information supplied by a lad led to the detection of the parties engaged in all four robberies at once. How many more such robberies may have been committed by these youths cannot now be ascertained, but the Assistant Magistrate has reason to think that they have been engaged in others; and he is therefore of opinion that stringent measures should be adopted towards them, with a view both of punishing them for what they have already done, and of preventing them, if possible, from again attempting robberies when released from prison.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—That the petitioner's house was twice searched is accounted for by himself in his statement that he gave when he said he was intoxicated with 'bhang,' and it is proved by witness Luxumon (No. 5) that he was at home when the property was found in his house. I see no cause for interference, and would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 15 of the Criminal Return of the Magistrate of Ahmednuggur for November 1856. Tried by the Assistant Magistrate of Nassick, S. M. PELLY, on the 5th and 10th November 1856. Confirmed by the Magistrate of Ahmednuggur, C. E. F. TYTLER, on the 18th November 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Raojee wulud Hurchund, Marwaree, aged 35.

Receiving Property which he knew, or had good reason to believe had been Stolen.

Charge.—Robbery by night, with force; he having, on the 19th October 1856, (Mitee Ashwin Wud 6th, Shuké 1778,) at Doogaum, Talooka Chandore, Zillah Ahmednuggur, in the night, broken a hole in the wall of complainant, Gunga Murd Lutcheeram, and having passed his hand through the hole and undone the fastening of the door, entered the house, and removed the door of a cupboard which was locked, and stolen from the cupboard bonds and other papers to the value of about Rs. 608.

The prisoner pleads not guilty.

* * * * *

Revised Charge.—The charge under which the prisoner has been tried in this case is not substantiated by the evidence adduced. There is, however, sufficient evidence to show that the prisoner had some of the stolen property in his house. The former charge is therefore annulled, and the prisoner is charged as follows:—With receiving property which he knew, or had good reason to believe had been stolen; he having, between 19th October 1856 and the 22nd of the same month, (Mitee Ashwin Wud 6th, and Wud 9th, Shuké 1778,) at Doogaum, Talooka Chandore, Zillah Ahmednuggur, received seven bonds to the value of Rs. 143-4-0, and four other papers; the above being part of what were stolen from the house of complainant,

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Receiving Property which he knew, or had good reason to believe had been Stolen.

S. M. Pelly, Assistant Magistrate.

Gunga Murd Lutcheeram. (Regulation XIV. of 1827, Section XLI. Clause 1st.)

Prisoner pleads not guilty.

Finding and Sentence by the Assistant Magistrate.—

The prisoner was first of all accused of robbery by night, with force, but, as the charge did not appear to be appropriate, it was afterwards altered to one of having received property which he knew, or had good reason to believe had been stolen. The complainant, a widow woman, says that, in the capacity of guardian to her grandson, she had charge of several bonds, &c.; that on the 19th October last she went to Chandore, having previously locked up her house; that on her return she found the house broken into and the papers stolen; that the prisoner is a connection of her grandson's uncle, and that he has been anxious to possess himself of the uncle's (Kooba's) property. The fact of the papers having been locked up by complainant as she describes is corroborated by the testimony of Kondoo Damodhur (witness No. 6), who deposes that he tied the bonds, &c. into a bundle and handed them over to complainant, who locked them up in a cupboard. Anundee (witness No. 4) deposes to the foot-marks having been taken up by the Police Patel at complainant's house and followed up as far as the one in which the prisoner resides. This witness, and Ghaseeram (witness No. 5) a member of the Panchayet, depose to the prisoner's house being searched on the following morning, and the eleven papers, now produced, being found there under some grass in the corner of a room. There was also an iron ladle found, which the same witnesses depose to having been dirty at one end when first found. They further say that the end of the iron ladle corresponds with some marks made around the hole in complainant's wall.

The prisoner admits that the papers were found in his house, but makes the usual defence under such circum-

stances, viz. that the charge is false, that it originates in ill-feeling, and that the friends of complainant (two Patels) went to his house and put the papers where they were found by the Police Peons. He calls two witnesses to prove that the Patels came to his house and sat on the grass prior to the search being made, but they both distinctly state that they know nothing about the Patels having gone to prisoner's house, and still less about their having sat on the grass.

In the opinion of the Assistant Magistrate the prisoner is guilty of the offence described in the second charge, and he therefore sentences him, under Regulation XIV. of 1827, Section XLI. Clause 1st, to undergo six (6) months' imprisonment, with hard labour, in the Nassick Jail.

This sentence, under Regulation IV. of 1830, Section III. is subject to the confirmation of the Magistrate of Ahmednuggur.

Confirmation by the Magistrate.—The second charge, that of receiving stolen property, appears fully proved..

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C. E. F. Tytler,
Magistrate.

The conviction is confirmed.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

The Court think that the prisoner might have been convicted of the robbery in this case. The property was found in his house, and also an instrument with marks on it which correspond with marks left in the wall that was broken. This, the Court think, ought to have been enough to satisfy the Assistant Magistrate that the man in whose house the property was found is the thief, unless he can show that there is reason to suspect some one else. The Court think, also, that if the Assistant Magistrate was of opinion that the charge of robbery would not hold, he should have altered the charge before he came to record his finding.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

AHMEDNUGGUR. [Petition of Rungnath wulud Kanhoo to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmednuggur, C. E. F. TYTLER, for Report, on the 14th January 1857.]

Robbery. *Prisoner.*—Rungnath wulud Kanhoo.

Charge.—Robbery ; estimated value of the property stolen, Rs. 47-2-11.

S. M. Pelly, Assistant Magistrate. *Sentence by the Assistant Magistrate at Nassick.*—Sentenced to suffer one year's imprisonment, and to provide a security for his good conduct for three years to the amount of Rs. 300, commutable to eighteen months' imprisonment.

Petition of Rungnath wulud Kanhoo to the Sudder Foujdaree Adawlut.—[Praying that the order to find security might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report about the security.

C. E. F. Tytler, Magistrate. *Return by the Magistrate.*—The Magistrate has the honour to report, that Rungnath wulud Kanhoo was found guilty of two robberies, and sentenced by the Assistant Magistrate to undergo twelve months' imprisonment with hard labour in the Nassick Jail, and, on release, to furnish security to the amount of Rs. 300 (commutable to eighteen months' imprisonment) for good conduct, for the space of three years, or to be imprisoned until the occasion be passed,

This sentence was confirmed by the First Assistant Magistrate in Charge, on the 14th October, 1856.

The Magistrate thinks it would have been preferable, had the consideration of precautionary measures been postponed until the expiration of prisoner's sentence,

The petition is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The

Court, concurring with the Magistrate, annul the order for security, leaving it open to the Magistrate to demand it again, if he should see occasion, at the expiration of the imprisonment.

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AHMEDNUGGUR.

Robbery.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 4 of the Calendar of the Konkun Sessions Court for 1857. Committed by the Acting Deputy Magistrate, DADODA PANDORUNG, on the 17th January 1857. Tried by the Acting Session Judge, H. P. ST. G. TUCKER, on the 22nd January 1857. Proceedings submitted to the Sudder Foujdaree Adawlut for confirmation.]

KONKUN.

Prisoners.—No. 1, Pemee, Widow of Hira, Soortee Kolee, aged 35.

Perjury.

2, Bechur bin Hira, Soortee Kolee, aged 15.

Charge.—Prisoner No. 1 is charged with perjury; in that, on 23rd December 1856, (corresponding with Margsheersh Wud 11th, Shuké 1778,) in the Town of Tanna, Talooka Salsette, Zillah Konkun, she did declare on solemn affirmation, in the Sessions Court, before H. P. ST. G. TUCKER, Esquire, Acting Session Judge, that “a gold ear-ring with two large pearls and a glass bead, and a nose-ring with three large pearls and nine small ones, and one red and one white precious stone, two pairs of silver anklets, and one silver chain with three loose links, were given to her to take care of by the prisoner, Bhana, in the month in which the last Holee took place”; the above statement being false, and wilfully made, with intent to screen the prisoner, Bhana, who was then on his trial on a charge of robbery.

Prisoner No. 2 with perjury; in that, on 23rd December 1856, (corresponding with Margsheersh Wud 11th, Shuké 1778,) in the Town of Tanna, Talooka

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KONKUN.

Perjury.

Salsette, Zillah Konkun, he did declare on solemn affirmation, in the Sessions Court, before H. P. St. G. Tucker, Acting Session Judge, "that in the month in which the last Holee took place, one day I was alone at our lodging; my mother had gone to procure grain to be ground; the prisoner Bhana came and gave me an ear-ring with two large pearls and glass bead, a nose-ring with three large pearls and nine small ones, and one red and one white precious stone, two pairs of silver anklets, and one silver chain with three loose links, to keep,—I took them and gave them to my mother Pemee"; the above statement being false, and wilfully made, with intent to screen the prisoner, Bhana Pitambér, who was then on his trial on a charge of robbery. (Regulation XIV. Section XVI. Clause 1st, of 1827, and Act V. of 1840.)

Prisoners plead guilty.

H. P. St.G.
Tucker, Acting
Session Judge.

Finding and Sentence by the Sessions Court.—The prisoners in this case are mother and son. The prisoner No. 2 (Bechur) is a lad, stated to be fifteen, but in appearance scarcely more than twelve. He was originally arrested in the streets of Bombay, with a bag of ornaments, which both he and his mother then stated had been given to them by a relative, named Bhana Pitambér, to take care of in the Dewalee (October) preceding their arrest. The man Bhana was then in prison on a charge of having committed a large robbery at Tanna in the month of July last, and some of the pearls in the ornaments found with the prisoners were identified as part of the stolen property, while there was every reason to suppose that the remainder had also been manufactured out of the proceeds of the stolen goods. Bhana and others were committed for trial, charged with the robbery; and the prisoners were also committed, charged with the criminal receipt of stolen property. The prisoner Bechur was at once acquitted, on the ground of his youth and of

his having acted under the instructions of his mother, and the prisoner Pemee was pardoned, and they were both examined as witnesses in the case. Before they were examined they were most carefully warned to speak the truth, and informed that no criminality would attach to them for the receipt of the property. In spite of this warning they persisted in stating that Bhana Pitamber had given them the ornaments at the preceding Holee (March); the object of the statement being to screen Bhana, by showing that he was possessed of the ornaments before the robbery at Tanna took place. The falsity of this statement was clearly established, as it was shown that one of the ornaments, viz. the silver chain with some loose links, had been made by a silversmith in Bombay for Bhana in the Dewalee, so it was impossible that the prisoners could have received this chain in the Holee; the prisoners have now, after hearing read over evidence which, if admitted to be true, would be sufficient to prove the charge against them, confessed that at the instigation of Bhana they made false statements regarding the time at which they had received the ornaments; and they are therefore convicted of perjury, as set forth in the charges on which they have been arraigned.

The prisoner Pemee, widow of Hira, is sentenced to two (2) years' imprisonment with hard labour; and the prisoner Bechur, son of Hira, to twenty (20) days' solitary confinement, and to receive twenty-five (25) stripes with a cat-o'-nine tails, on his bare back, at the commencement of this imprisonment.

Both these sentences are subject to the confirmation of the Court of Sudder Foujdaree Adawlut. (Regulation XIV. Section XVI. Clause 2nd, of 1827.)

I may observe that the boy Bechur, though of tender years, is unusually quick and intelligent, and that he fully understood the character of the act he was committing at the time he made his false deposition.

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KONKUN.
Perjury.

Perjury.

BROACH.

[Petition of Purtapia Poonjia and another to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Broach, C. J. DAVIES, for Report, on the 8th January 1857.]

Failing to find a Security.

Prisoners.—No. 1, Purtapia Poonjia.
2, Kalia Poonjia.

Charge.—Failing to find a security, in the sum of Rs. 100, for future good conduct for two years.

Nowrojee By-
ramjee, Hoozoor
Deputy Magis-
trate.

Order by the Hoozoor Deputy Magistrate.—Ordered each to be kept in confinement, without labour, for two years, or until each produces the prescribed security ; but at the expiration of the first year confirmation of the Sudder Foujdaree Adawlut to be obtained for the second year.

*'Petition of Purtapia Poonjia and another to the
Sudder Foujdaree Adawlut.—[Praying that the order
to furnish security might be annulled.]*

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

C. J. Davies,
Magistrate.

Return by the Magistrate.—The Magistrate has the honour to report that the petitioners (Purtapia Poonjia

and Kalia Poonjia) were, on the 17th, 18th, and 19th November last, tried before the Hoozoor Deputy Magistrate, on a charge of robbery with force by night; and were both acquitted. Thinking, however, that very great suspicion rested on them, and taking into consideration "their well-known bad character and the many former convictions had against them," the Deputy Magistrate ordered "the prisoners to furnish a competent security each, in the penal sum of Rs. 100, for their good behaviour for the space of two years, or, in default thereof, to be confined in the Jail for that period, or until they give the sureties required. The securities, on the bond becoming forfeit, to undergo six months' imprisonment each, in commutation of the penalty attaching to the forfeiture thereof."

The prisoners produced sureties, but, on referring to the Police Amuldar of Broach, he reported that they were "by no means satisfactory," and the prisoners professing their inability to "furnish more competent securities," the Deputy Magistrate ordered "them to be detained in Jail for the period of two years, or until they can give the securities required. Subject to the confirmation of the Magistrate."

On December 4th, 1856, the late Magistrate confirmed the order of the Deputy Magistrate.

The Magistrate, begs further to report, that the previous convictions on record against the prisoners are as follows:—

Against Purtapia (prisoner No. 1),—

10th. February 1853 : convicted by the Senior Assistant Session Judge on a charge of receiving stolen property; and sentenced to be imprisoned for two years with hard labour, to receive twenty-five stripes, and to be returned for precautionary measures.

17th April 1855 : convicted by the Deputy Magistrate on a charge of gang robbery without force by night (*sic*),

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and sentenced to one month's imprisonment with hard labour, and twenty-five days' solitary imprisonment.

Against Kalia (prisoner No. 2).—

30th July 1850 : convicted by the Senior Assistant Session Judge on a charge of robbery by night with force, and sentenced to be imprisoned for two years, with hard labour.

18th April 1855 : convicted by the Deputy Magistrate on a charge of robbery without force by day, and sentenced to be imprisoned for three months with hard labour.

25th February 1856 : convicted by the Deputy Magistrate on a charge of robbery without force by night, and sentenced to ten days' solitary imprisonment, four months' imprisonment with hard labour, and again ten days' solitary imprisonment.

Resolution of the Sudder Foujdaree Adawlut.—The amount of security required is reduced to Rs. 50.

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BELGAUM.

Present, { WILLIAM EDWARD FREER, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 123 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Second Assistant Magistrate of Belgaum, O. F. H. SHAW, on the 26th August 1856. Tried by the Acting Assistant Session Judge, J. R. ARTHUR, on the 22nd September and 2nd and 3rd October 1856. Reviewed by the Session Judge, A. W. JONES, on the 6th October 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Rape.

Prisoner.—Ningungowra bin Roodragowra, Lingayet, aged 35.

Charge.—Rape (Regulation XIV. of 1827, Section XXIX. Clause 1st); in that he did, on or about the

19th August 1856; (Shrawun Wud 4th, Shuké 1778,) have connection by force and against her will with one Sunbalee, a girl of thirteen years of age, within the limits of the village of Hargop, in the Pursghur Talooka, in the Belgaum Division of the Dharwar Zillah.

Finding and Sentence by the Acting Assistant Session Judge.—Prisoner is charged with the crime of rape, and pleads not guilty.

It appears, from the deposition of Sunbalee, the girl on whom the assault is said to have been committed, that on the morning of Tuesday the 19th August, she was going down to fetch water from the tank, which is situated at some little distance from the village in which she resides. The path by which she came seems but little frequented, and is at some distance from the high road; it appears to be almost exclusively used by the people of the Mang caste, who go down to the nulla, which runs through the tank, for water. While there, and before she had filled her pitcher, prisoner came up to her, and, after speaking to her a little, proposed that she should prostitute herself to him. To this she did not consent. He therefore, seizing hold of her, threw down her pitcher, and, carrying her to a neighbouring spot in the bed of the nulla, which seemed suitable for his purpose, had connection with her there. Now, the points for the Court to consider with reference to this statement are, first, whether at the time and place mentioned prisoner had intercourse with the girl, and, if so, whether it was with her consent or against her will. Two witnesses, by name Purshia and Dhondia, depose that on the morning in question, they went to the tank to fetch water, and that, being attracted by cries proceeding from the nulla, from which they were then only some twenty yards distant, they ran upon the bank to see what was the matter, and thence they saw the prisoner, though, owing to inequalities in the ground, they

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could not distinctly discern what he was doing; on seeing them, they say that prisoner ran off, but was so close to them that they could not fail to recognise him. When he ran away, the girl came and told them what had happened to her. Now the Court thinks that there is no reason to suspect that these witnesses are speaking what is not the truth. Prisoner has, indeed, asserted that these persons are influenced by feelings of enmity towards him; there is nothing, however, to make the Court believe that such feelings are really entertained by them; on the contrary, in prisoner's own statement there is matter confirmatory of their depositions, for, had these men not been present as they state, prisoner would doubtless have denied having even seen Sunbalee that morning. He does not do this, but admits having been with her, though occupied solely in using abusive language towards her; thus making use of a fact of which he must on reflection have become aware, and which these witnesses themselves admit, that, whatever they might suspect, they could not from the places where they were standing actually see what was going on in the nulla below them. It being then established beyond question that prisoner was with the girl alone in the nulla at the place and time mentioned, it remains to be seen whether sexual intercourse was had with her. To prove this there is not only the testimony of the witnesses above named, and of the girl's own sister, who were *at once* informed of the matter by the girl herself, but also the evidence of a jury of respectable matrons, upon whose veracity no doubt can be cast, and who can have had no caste sympathies with the girl, but who rather, regarding her as one of a degraded caste, would be inclined to make light of her wrongs: these women say that there can be no doubt that she has been violated. They carefully examined her person, and declare that there has

been internal bleeding, and that the parts are very much swollen, and in a manner which clearly indicates that connection had been had with her; they also state most positively that the girl has not come to the age of maturity, and that the bleeding cannot be assigned to natural causes. With evidence such as this confirming the girl's own statement and that of the witnesses Purshia and Dhondia, the Court, without hesitation expresses itself convinced that the prisoner did, at the time and place indicated, have sexual intercourse with the girl Sunbalee. The only point, and that a most important one, which now remains to be considered is, whether Sunbalee was a consenting party to the deed: if it can be inferred from the attending circumstances that she even so much as tacitly assented to prisoner's act, the charge against him must fall to the ground. The girl herself is represented as being thirteen years of age. It is most difficult to obtain perfectly accurate information regarding the age of children in this country; as far, however, as the Court can judge from its own observation, it would conclude that Sunbalee, though small, has certainly arrived at that age at which her consent would cease to be a matter of no moment. The matrons who examined the girl's person say that she had not arrived at the age of maturity. Surely if the carnal knowledge of a child, if had before that time has come but after she has arrived at a certain age, should that child be a consenting party, not constitute a criminal act, if had against her will at that age, at which she can physically offer but little resistance to the fulfilment of a man's desire; the offence must be looked upon as one of a very aggravated nature. In this instance there is everything that would denote the non-consent of Sunbalee. She says that her pitcher was broken and she carried off by force. The spot was examined two days afterwards, and broken pieces of an earthen vessel were found there. It may be

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said that these were placed there designedly during the interval. So, also, at the place in the nulla, to which Sunbalee says she was taken by force, broken pieces of glass bangles were found; the same remark may be made regarding this circumstance. It does not, however, appear by any means *probable* that this deception was practised; but, as it is possible, no great weight can be attached to these as isolated portions of evidence. Again, a cry is heard which attracts persons to the spot. It may be contended that this was only natural, whether the child consented to her dishonour or not, seeing that she must have suffered intense pain. Directly prisoner left the girl, she went and told some men, who were near the place, that violence had been done her. It might be said that she did this to conceal her own share in the evil act; she repeated the same story to her sister, who immediately gave information to the chief persons in the village. However unimportant these matters, considered separately, may appear, *combined* they afford strong, presumptive evidence of prisoner's guilt. The fact that complaint was not made at the District Police Officer's Kutcheree for the space of two days is most satisfactorily accounted for: there is more than the woman Dwod Balle's own statement to show that she acted with the utmost promptitude in the matter; her representation is most minutely borne out by the depositions of the head persons of the village. Prisoner, when before the District Authorities, endeavoured to show that this woman bore him ill-will; but the witnesses he called for that purpose, so far from confirming his statement, declared that they were not aware that enmity of any kind existed between the parties. Prisoner's counsel has carefully avoided renewing the attempt to dispose of the charge in this manner, but relies, for his defence, principally on the fact that the offence is one which would subject prisoner to very heavy caste penal-

ties, and therefore that it is so improbable that he should commit it, that no amount of evidence can render it credible. The Court, so far from concurring in this line of argument, considers that a man who could be carried away by his passions to do violence to a woman would not be restrained by the consideration that in giving way to them he was breaking the laws of his caste. The Court, being fully convinced, by the evidence before it, that the prisoner is guilty of the crime with which he is charged, convicts him thereof accordingly; in that he did, on or about the 19th August 1856, (corresponding with Shrayun Wud 4th, Shuké 1778,) have connection, by force and against her will, with one Sunbálee, a girl of thirteen years of age, within the limits of the village of Hargop, in the Pursghur Talooka, in the Belgaum Division of the Dharwar Zillah.

The sentence of this Court is, that you, prisoner Ningungowra, undergo four (4) years' imprisonment with hard labour. (Regulation XIV. Section XXIX. Clause 1st, of 1827.)

This sentence is subject to the Session Judge's confirmation.

Review by the Sessions Court.—The Session Judge having heard the Vakfel for the defence, and considering that the offender being the Police Patel is a sufficient reason for the delay in making the charge, and as it is shown that the complainant's sister applied successively to the two persons who were next in authority as it were to the Police Patel, sees no reason to differ from the conclusion come to by the Acting Assistant Session Judge as to the evidence, and accordingly confirms conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The case appears to have been very carefully tried, and the Court see no grounds for interference with the conviction and sentence.

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A. W. Jones,
Session Judge.

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BELGAUM.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 120 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Third Assistant Magistrate of Belgaum, G. W. ELLIOT, on the 16th August 1856. Tried by the Session Judge, A. W. JONES, on the 16th, 17th, 18th, 20th, 21st, and 22nd October, and 13th, 14th, 15th, 17th, 18th, 19th, 28th, and 29th November, and 6th, 10th, and 17th December 1856. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut].

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Night; and Insti-
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before the Perpe-
tration, and with
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Prisoners.—Mahomed Khan wulud Nawaz Khan,
Mussulman, aged 30; and 15 others.

Charge.—Against prisoners Nos. 1 to 13, gang robbery with force, by night (Regulation XIV. Section XXXVI. Clause 1st, of A. D. 1827); in having, on Friday, 20th June 1856, (corresponding with Jésh't Wudá 2nd, Shuké 1778,) between the hours of 7 and 10 P. M., forcibly entered the Government Customs Department Kutcheree at the village of Tulewadee, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, and robbed from the Government treasury there Company's Rs. 323-3-4; and in having also robbed, burnt, and destroyed there other Government property, valued at Rs. 220-5-6; and in having, at the same date and place, forcibly entered eleven houses, belonging to inhabitants of the same village of Tulewadee, wherein and whereof they robbed, and burnt, and destroyed property of the persons named below; valued at Rs. 1,239-7-9; of which the sum of Rs. 183-11-0 was in Company's currency, viz:—

Gunputrow Govind.....	Rs.	122	0	0
Gunesh Chiptamun.....	„	231	6	0
Vishnoo Bajee.....	„	34	7	0
Dinkur Mahadeo.....	„	5	0	0
Anunt Huree.....	„	83	10	0
Sonoo Luxmana.....	„	149	0	0

Purushram Bhurmajee	Rs.	15	4	0
Apoō Santapa.....	„	6	15	6
Witul Goondoo.....	„	11	12	0
Gunesh Bhut.....	„	16	3	3
Naro Bapojee.....	„	531	14	0
Baboo Gunba.....	„	8	0	0
Ghera Deogoura.....	„	8	0	0
Witoba Sobajee.....	„	12	0	0
Mota Abajee.....	„	4	0	0
		1,239	7	9

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And against prisoners Nos. 14, 15, and 16, instigating and aiding before the perpetration, and with concealment of the perpetrators after the gang robbery (Regulation XIV. Section XXXVII. Clause 1st, and Section I. Clause 5th, of A. D. 1827); in that they did, on Wednesday, the 17th September 1856, (corresponding with 3rd Bhadrupud Wud, Shuké 1778,) secrete and harbour, within the limits of the village of Deygaum, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, Bhikoo Toora, Arjoona Goonsawunt, Bhowanee Jadow, and others, well knowing, at the time, that these said persons had lately committed gang robberies at Tulewadee in the Beedee Talooka, and Tinai in the Madras Presidency; in that they did aid the said gang robbers in evading the search made after them by the Police Authorities, by refraining to give to the said Authorities such information as they were capable of giving, which, had they given it, would have assisted the said Authorities in capturing the said gang robbers; and in that they, at the time well knowing it to be false, and with the intention of misleading the said Authorities, and with a view to aid the said gang robbers in escaping, did give such false information to the said Authorities as materially hindered them in their endeavours to apprehend the said gang robbers; and in that they supplied

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the said gang robbers with food, and forcibly caused several inhabitants of their village of Deygaum, viz. Gunesha bin Khundoo, Dewoo bin Witgoura, Deooja bin Baloo, Panoo bin Malgoura, Soongta bin Soongoura, and Bhomla Bhatora Gunjoo, to join the said gang robbers for the avowed purpose of committing other gang robberies.

Finding and Sentence by the Sessions Court.—The prisoners Nos. 1 to 12 (Mahomed Khan and others) are charged with gang robbery with force, and plead not guilty; and prisoners Nos. 14, 15, and 16 are charged with instigating and aiding, and concealment of the perpetrators, and plead not guilty.

It appears that about 7 o'clock in the evening of Friday, the 20th June, the Kutcheree of the Customs Department at Tulewadee was suddenly attacked by a party of men, headed by prisoner No. 1 (Mahomed Khan), the two Peons on guard were tied by the arms, and the treasure chest, which happened to be at the Kutcheree, was plundered, and then the Kutcheree and Dufturs and all its contents were burnt to the ground.

The two Sepoys on guard at the Kutcheree at the time it was attacked are the only witnesses who can speak to the identity of the robbers concerned in it, as the whole establishment—the Jemadar, Naique, Peons, and Kar-koon—appear to have been so thoroughly panic-stricken, that they not only offered no resistance whatever to the plunder of the Government property, but made off into the jungles, leaving their own whole property and houses to be robbed and burnt. This is greatly owing, no doubt, to the Jemadar and Naiques having been so foolish as to leave the whole of their arms in the Kutcheree, so that the robbers, having once got possession of it, the whole village was at their mercy; for, according to the Jemadar, there were no other arms to be found in the place.

The witness No. 1 (Nursing) states that prisoner No. 1 (Mahomed) had exchanged his guard with him so as to have the watch from 6 to 8, the most convenient time for furthering the enterprise; and he and witness No. 2 (the other Customs Peon) depose that this prisoner was the first to enter the Kutcheree and gave the signal for attack; and they both depose that when the Kutcheree had been set fire to, the gang went on into the village, and there burnt several houses.

This is also deposed to and proved by the several persons whose houses were burnt; and they also depose that property of various kinds was robbed from their houses, though one of them (witness No. 9) has put down as lost in this robbery a quantity of property which, it seems from his deposition, must have been taken some time after the night of the robbery.

The Government property plundered and destroyed at the Kutcheree is valued by the First Karkoon at about Rs. 600, and that of individuals, lost and destroyed in the village, seems to have amounted to between Rs. 500 or Rs. 600.

The only persons recognised by the two witnesses Nursing and Rama, on that night, were prisoners Nos. 1, 2, 11, and 12 (Mahomed Khan, Gunba, Arjoona, and Witoo).

These two witnesses say that after the plunder and burning at Tulewadee was completed, they were forced to accompany the gang; and they depose that it proceeded next to the Pansaree Customs Chowkee, which was also burnt. The two Sepoys at this Chowkee depose to this also, stating that the gang came up, and, ordering them out of the Chowkee, burnt it, and then marched on, carrying them off as prisoners.

It is then shown that the gang proceeded on to the village of Khelil, where they seized the Koolkurnee of that circle of villages, and a Peon who was with him, robbing the former of about Rs. 12, and burning all the Govern-

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ment Dufturs and books he had with him. The Koolkurnee says he only recognised the prisoners Nos. 1 and 3 (Mahomed Khan and Mohodeen) as concerned at that time.

It appears the Police Patel of this village was made to accompany the robbers, and that on the road to the next village he was entrusted with the concealment of a quantity of copper and other metal vessels which had been obtained at the plunder of Tulewadee, and these articles were afterwards given up from this place by the Police Patel of Khelil, as shown in the deposition of witness No. 22 (Balajee).

The gang is then shown to have gone on to the village of Krishnapoor, where they plundered one Ganesh Bhut of property valued at about Rs. 16. He declares that the prisoners Nos. 11 and 12 (Arjoona and Witoo) came into the house, and that prisoner No. 1 (Mahomed Khan) was on guard over him for a time; he was then put in custody with the Koolkurnee and his attendants. And from this village it appears that the prisoner No. 10 (Eerana), with a Sepoy of the Customs Department (Bhikoo Tora, who has not been apprehended), and another of the gang, were sent to the Fort of Bheemgud; and witness No. 18 deposes he heard the prisoner No. 1 (Mahomed Khan) ask who would go and get help from that place, and then sent off these persons; and witness No. 19 deposes he heard the prisoner No. 1 (Mahomed Khan) order them to go. While the fact of this party having been thus sent to Bheemgud is deposed to by witnesses Nos. 1, 4, and 17 (Nursing; Rama, and Tum-budgowra), and considering the manner in which, as they went on, they continued to make prisoners, and the publicity of the proceedings of the gang, the Session Judge has no doubt whatever that this may have been spoken of as openly as the evidence of these witnesses would show, and that the prisoners did actually send for help to the Gudkurrees of this Fort.

The gang is then shown to have gone on to the village of Holda, where, however, the robbers do not seem to have plundered any one; but they had a meal, partly composed of the rice taken from the Bhut's house at Krishnapoor. At this place witnesses Nos. 1 and 4 (Nursing and Rama) depose they heard prisoner No. 1 (Mahomed Khan) and a Sepoy named Bhowanee Jadoo (who has not been apprehended) talking of getting assistance from one Deepa Rama, a turbulent Chief of the Goa territory; and witness No. 20 (Gunesb Bhut) deposes that the prisoner No. 1 (Mahomed) and another person took him to the gate of the village, which is confirmed by witness No. 18, also telling him they were going to take him down to this person (intending probably to leave him as a hostage), but that, at the interposition of the Police Patel of Khelil, they altered their intention and went without him; and that this prisoner and another did leave this village, and that it was said they were going to this Chief, is also deposed to by witnesses Nos. 1, 4, 17, and 19 (Nursing, Rama, Tumbudgowra, and Seeraj).

The gang then is shown to have gone on to Ambe-gaum, where they compelled the villagers to give them food; but from this place they returned, and, so far as this case is concerned, may be considered to have been broken up, every one of the persons captured by the robbers having got away from them by that time.

About three months after, however, some of the gang were still at large; and it seems they appeared at a village close to Tulewadee one night, and compelled some of the villagers to accompany them, and also got a supply of rice from the Police Patel.

The evidence connecting the prisoners before the Court with the proceedings of this gang is as follows:—

The prisoner No. 1 (Mahomed Khan) admits himself he accompanied it, but declares he was forced to do so,

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and claims credit for surrendering to the Police Amuldar of Kitoor, in which town his house is. But while other Sepoys who had been forced to go with the gang got away and went to the Authorities in various directions, he did not even go to the District Police Officer at Kitoor till Friday the 27th, after a Proclamation had been issued for his arrest; and it is shown by the Sepoys of the Customs, Nursing and Rama (witnesses Nos. 1 and 4), that he was the person who entered the Chowkee first; and it is shown also that he was active at the capture of the Pansaree Chowkee guard, and he is recognised by witnesses Nos. 18 and 19 (Witul and Seeraj), and especially by witness No. 21 (Pursharam), as having been the leader of the gang; and the Session Judge has no doubt, from the whole circumstances of the case, that he was so. He is therefore convicted, as charged.

The prisoner No. 2 (Gunba) was identified among the gang by witnesses Nos. 1, 4, 16, and 18 (Nursing, Rama, Tumbudgowra, and Witul); he is also shown to have admitted the robbery when arrested, and he is shown to have made a full confession, and to have admitted it before the Assistant Magistrate, before whom also he pleaded guilty. He is therefore convicted, as charged.

The prisoner No. 3 (Mohodeen) was identified by the two Sepoys Nursing and Rama, and by witnesses Nos. 18, 19, and 21 (Witul, Seeraj, and Pursharam) as among the gang; and it is shown by witnesses Nos. 58 and 59 (Khaja Sudrooden and Husun Saheb) that, on his arrest, a 'saree,' identified by the Jemadar Sonoo as lost by him in the robbery, was found in his house. It is also shown that he confessed the crime, and gave an account of his part in it, which he admitted before the Assistant Magistrate, before whom also it appears he pleaded guilty. The prisoner No. 3 is therefore convicted, as charged.

The prisoner No. 4 (Ningana) has admitted before the

Court his confession, containing an account of what he did in the robbery, and he is accordingly convicted.

The prisoner No. 5 was recognised among the gang by witnesses Nos. 1, 4, and 18 (Nursing, Rama, and Witul), and is shown by witnesses Nos. 6 and 7 (Syed and Fukroo) to have tied up a 'judrepat dhotee' as part of the plunder which was identified by witness No. 16 (Kristnajee) as his own; and it is also shown that he confessed the crime, and admitted his confession before the Assistant Magistrate; and it appears he there also pleaded guilty. The prisoner may therefore be convicted, as charged.

Against the prisoners Nos. 6 and 7 there is the fact that the Police Patel of their village deposes they were absent at the time of the robbery, and that they confessed having been engaged in it before the Police Amuldar; but they have denied their confessions before the Assistant Magistrate and before the Court; and, although some of the witnesses say they recognise them, the Session Judge thinks the evidence in their case is scarcely sufficient to warrant their conviction, and therefore acquits them.

The prisoner No. 8 (Hunma) was recognised among the robbers by witnesses Nos. 1, 4, 16, 17, and 18 (Nursing, Rama, Kristnajee, Tumbudgowra, and Witul), and by witness No. 19 (Seeraj, who states that the prisoner was on guard over him at Krishnapoor), and by witness No. 20 (Gunesh Bhut), and is shown by witnesses Nos. 60 and 68 (Mulapa and Sunga) to have admitted the crime when arrested; and it is proved that he admitted before the Assistant Magistrate the full confession of it which he had previously made. The prisoner may therefore be convicted.

The prisoner No. 9 (Bheema) is shown by witness No. 16 (Kristnajee) to have been on guard over him at Krishnapoor; and he was also identified by witnesses Nos. 17 and 18 (Tumbudgowra and Witul), and is shown by witness No. 69 (Sheik Kureem) to have ad-

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mitted the crime, after some hesitation, when arrested; and it is also shown that he admitted his confession before the Assistant Magistrate; and it appears also that he pleaded guilty before that gentleman. The prisoner is therefore convicted, as charged.

The prisoner No. 10 (Eerana) is recognised among the robbers by witnesses Nos. 1, 4, 17, 18, and 19 (Nursing, Rarra, Tumbudgowra, Witul, and Seeraj); he was arrested by witness No. 61 (Yela) some time after the gang robbery, and there was found upon him at the time a silver 'kuda,' which was identified by witness No. 9 (Gunputrow) as one belonging to his child, which was lost at the time of the robbery. This prisoner is also shown to have admitted the crime before the Assistant Magistrate, and to have pleaded guilty before him. He is therefore convicted, as charged.

The prisoners No. 11 (Arjoona) and No. 12 (Witoo) are identified as being among the robbers by almost every witness in the case, and they also are shown to have fully confessed the crime both when arrested and before the Assistant Magistrate, and it appears also that they both pleaded guilty before him. They are both therefore convicted, as charged.

The Session Judge does not think the evidence is sufficient to convict the prisoners Nos. 14, 15, and 16 (Deongurgowra, Pandgowra, and Poondgowra). It is notorious in the country that a Police Patel of a village close to theirs was shot by this gang, and there is therefore a much greater excuse for their conduct than for that of other Police Patels who have been discharged by the Assistant Magistrate as having acted under the influence of fear; and that the Police Patel did not give true information to the Police may, the Session Judge considers, be dealt with departmentally. The prisoners No. 14, 15, and 16 (Doongurgowra, Poondgowra, and Poongowra) are therefore acquitted and discharged.

The prisoners Nos. 1, 2, 3, 4, 5, 8, 9, 10, 11, and 12 (Mahomed Khan, Gunba, Mohodeen, Ningana, Bheema, Hunma, Bheema bin Busana, Eerana, Arjoona, and Witoo) are convicted of gang robbery, with force, by night; in having, on Friday, the 20th June 1856, (corresponding with Jeshit Wud 2nd, Shuké 1778,) between the hours of 7 and 10 P. M., forcibly entered the Government Customs Department Kutcheree at the village of Tulewadee, in the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah, and robbed from the Government treasury there Company's Rs. 323-3-4; and in having also robbed, burnt, and destroyed there other Government property valued at Rs. 220-5-6; and in having, at the same date and place, forcibly entered eleven houses belonging to inhabitants of the same village of Tulewadee, wherein and whereof they robbed, and burnt, and destroyed property of the persons named below, valued at Rs. 1,239-7-9, of which the sum of Rs. 183-11-0 was in Company's currency, viz:—

Gunputrow Govind.....	Rs.	122	0	0
Gunesh Chintamun	„	231	6	0
Vishnoo Bajee.....	„	34	7	0
Dinkur Mahadeo	„	5	0	0
Anunt Hurree.....	„	83	10	0
Sonoo Luxmana	„	149	0	0
Purushram Bhurmajee	„	15	4	0
Apoo Santapa	„	6	15	6
Witul Goondoo	„	11	12	0
Gunesh Bhut	„	16	3	3.
Naro Bapojee	„	531	14	0
Baboo Gunba	„	8	0	0
Ghera Deogoura	„	8	0	0
Witoba Sabajee	„	12	0	0
Mota Abajee	„	4	0	0

Total.... Rs. 1,239 7 9

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And in having, on or about the night of the said Friday, 20th June, or early in the morning of the next day, being Saturday the 21st of June, burnt and destroyed a Government guard-house, called Pansaree Guard-house, situated on the road between the village of Tulewadee and the village of Khelil, of the Beedee Talooka, in the Belgaum Division of the Dharwar Zillah; and in having, on or about the night of the said Friday, 20th of June, or early in the morning of the next day, being Saturday the 21st of June, at the said village of Khelil, of Beedee Talooka, robbed from the person of one Witul Goondo Koolkurnee, property valued at Company's Rs. 11-12-0, and in having burnt certain Government records in his possession; and in having, on or about the morning of Saturday, the 21st of June 1856, forcibly entered the house of one Gunesh Bhut bin Witul Bhut, in the village of Krishnapoor, of the Beedee Talooka, and robbed therefrom property valued at Company's Rs. 16-3-3 (being cash to the amount of Company's Rs. 4-4-0, and brazen and copper vessels valued at Rs. 9-9-0, and clothes valued at 14 annas and 3 pies, and a silver ear-pricker valued at 5 annas, and grain valued at 1 rupee and 3 annas); and in having, on or about the said Saturday, 21st of June 1856, at the village of Holda, in the Beedee Talooka, robbed from one Pursharam wulud Apa Goodoos, an inhabitant of Tulewadee, of the Beedee Talooka, tobacco and plantain fruit valued at about 8 Company's annas; and in having, on or about the said Saturday, 21st of June 1856, burnt a Government guard-house within the limits of the village of Ambegaum, in the Beedee Talooka.

The Session Judge, considering that the crime committed was of so serious a nature as almost to amount to rebellion, determines to inflict on the three persons whom he considers the leaders, the heaviest punishment assigned thereto in Regulation XIV. Section XXXVII. Clause 1st, of 1827.

And the following sentence is accordingly passed :—

That you, prisoners No. 1 (Mahomed Khan wulud Nawaz Khan), No. 3. (Syed Mohodeen wulud Syed Adam), and No. 10 (Eerana bin Shetapa), be transported for the term of your natural lives.

That you, prisoners No. 8 (Hunma bin Dyamana), No. 9 (Bheema bin Busana), No. 11 (Arjoona bin Goonsawunt), and No. 12 (Witoo bin Baboo), be imprisoned and kept to hard labour for seven (7) years.

And that you, prisoners No. 2 (Gunba bin Shiwana), No. 4 (Ningana bin Goorapa), and No. 5 (Bheema bin Ramapa), be imprisoned and kept to hard labour for four (4) years.

The sentence of transportation to be subject to the confirmation of the Sudder Foujdaree Adawlut; and the rest of the prisoners are acquitted and discharged.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I think Arjoona ought to have been transported. 110 balls were found in his house; he appears (21) to have been armed with a gun; and from the evidence of witnesses No. 1 (Nursing), No. 4 (Rama), No. 16 (Kristna-jee), No. 17 (Tumbudgowra), No. 20 (Gunesh Bhut), No. 26 (Gunesh bin Khundoo), No. 28 (Deoga), No. 29 (Poonoo), and No. 30 (Shaba), he took a conspicuous if not a leading part in the outrages the gang committed.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence on prisoners No. 1 (Mahomed Khan), No. 3 (Syed Mohodeen), and No. 10 (Eerana) are confirmed.

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W. E. Frere,
Puisne Judge.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

DHARWAR.

*[Case No. 184 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Third Assistant Magistrate, G. W. ELLIOT, on the 18th December 1856. Tried by the Session Judge, A. W. JONES, on the 31st December 1856 and 2nd January 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder.

Prisoner.—Busapa bin Rachapa, Lingayet, aged 40.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, A. D. 1827); in having, at about midnight, on Monday the 24th November 1856, (corresponding with Kartik Wud 12th, Shuké 1778,) in front of the house of Kowdyapa bin Roodrapa, in the village of Balaree, in the Dumul Talooka, in the Dharwar Division and Zillah, purposely, and without extenuating cause, caused the death of Bhuktapa bin Rurgapa, of Meratgerree, by wounding him with a reaping-hook in the chest, and by otherwise ill-treating him so seriously that he died on Sunday the 7th December 1856 (corresponding with Margsheersh Shood 10th, Shuké 1778) from the effects thereof.

A. W. Jones,
Session Judge.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that in the middle of the night of Monday the 24th November 1856, a man, Kowdyapa, of the village of Balaree, was roused by hearing some shouts, and, going out, perceived the prisoner at the bar sitting on a man named Bhuktapa, who was lying with his back to the ground; on seeing this Kowdyapa called to the Police Patel at the Chowree (which is only ten cubits off), and he and a Tulwar came to the spot in a few minutes, and they both depose that they found the prisoner and Bhuktapa in this position; but they also

depose that the prisoner had in his hand a reaping-hook and a stick.

Having separated them, the Police Patel and Tulwar brought them both to the Chowree, where it was found that Bhuktapa had a most severe wound on the right side of the breast, and was bleeding profusely. A report was sent to the Police Amuldar at once, and it appears that attempts were made to heal the wound, but they failed of effect, and Bhuktapa died on the 7th December 1856; and the report of the Inquest held on his body was proved and recorded before the Court, and was to the effect that Bhuktapa had died of this wound.

The prisoner admitted before the Court the statement he had originally made, in which it is not denied that he inflicted the wound of which Bhuktapa died, nor does his Vakeel deny it; but the defence is that he was assaulted in his house by this Bhuktapa and another person, and that he only wounded him in self-defence.

And Mulee, the woman who lives with him, and is his cousin's wife, in the deposition she made before the Police Amuldar and confirmed before the Assistant Magistrate, stated that Bhuktapa had come to the house that night with Ayungouda (who it appears is of the Patel's family), and had insulted her, or tried to induce her to consent, or to force her to allow them to have criminal intercourse with her, and that when the prisoner interfered they beat him; but this she denied before the Court, limiting her assertion to the fact that two persons came in on that night and beat the prisoner; and the Vakeel attributes this altercation to fear of offending the Patel's family.

On the other hand, Bhuktapa stated in his deposition, before he died, that he was quietly sleeping in Kowdya-pa's verandah when he was suddenly attacked without provocation by the prisoner; and he said that the attack was made in revenge for his having intercourse with

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this woman Mulee, of which the prisoner, being intimate with her also, was jealous. This deposition, however, as it was not attested, could not be proved (except by calling for the Police Amuldar and the writer of it, which the Session Judge did not think necessary), and, therefore could not be recorded; besides which Kowdyapa denies that Bhuktapa was sleeping in his verandah that night, or that he ever slept there. Now it is certain that the spot where the prisoner and Bhuktapa were found is close to the prisoner's house, and at a great distance from that of the deceased; and considering the time of the night, therefore, at which the assault took place, the Session Judge has little doubt the prisoner did receive some provocation relative to this woman; but, as it is, there is nothing to prove what it was, or that it was sufficient to excuse the violent use of so deadly a weapon as a reaping-hook, which the wound of the deceased establishes. The Session Judge is of opinion that the prisoner must be convicted of murder as charged; in having, at about midnight, on Monday the 24th November 1856, (corresponding with Kartik Wud 12th, Shuké 1778,) in front of the house of Kowdyapa bin Roodrapa, in the village of Balaree, in the Dumul Talooka, in the Dharwar Division and Zillah, purposely, and without extenuating cause, caused the death of Bhuktapa bin Rungapa or Meeratgeree, by wounding him with a reaping-hook in the chest, and by otherwise ill-treating him so seriously that he died on Sunday the 7th December 1856 (corresponding with Margsheersh Shood 10th, Shuké 1778) from the effects thereof.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed:—

That you, Busapa bin Rachapa, be transported across

the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—There can be no doubt in this case as to the deceased having died from wounds received from the prisoner; and the only question that arises is, whether the crime committed is murder or culpable homicide. The Session Judge has, I think, rightly decided that there is not provocation to be concluded from the facts in evidence to justify finding the prisoner guilty of the lesser crime only.

The sentence should be confirmed.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

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W. H. Harrison,
Puisne Judge.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 79 of the Calendar of the Rutnagherry Sessions Court for 1856. Committed by the Acting First Assistant Magistrate, W. D'O'LY, on the 3rd December 1856. Tried by the Acting Senior Assistant Session Judge, R. H. PINHEY, on the 11th December 1856. Reviewed by the Acting Session Judge, H. P. ST.G. TUCKER, on the 31st December 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut.]

RUTNAGHERY.

Prisoner.—Nargo Ladko, Mahratta, aged 25.

Robbery by Night,
without Force.

Charge.—Robbery by night, without force (Regulation XIV. of 1827, Section XXXVII. Clause 4th); in having, on the 24th November 1856, (Mitee Kartik Wud 12th, Shuké 1778,) in Vingorla, Talooka Malwan, Zillah Rutnagherry, stolen, from the platform ('ota') outside the house of Sabla Govind Salgaumkur, a cloth value eight annas, the property of Rukmin, wife of Govind.

The prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—This is so simple a case, that any detailed remarks on the evidence appear to me unnecessary.

* R. H. Pinhey,
Acting Senior As-
sistant Session
Judge.

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RÚTNAGHERRY.
Robbery by Night,
without Force.

Prisoner is charged with robbery without force, by night, and, as he was caught in the act of running away from the neighbourhood of the scene of the robbery with the stolen property on his person, I therefore convict prisoner of robbery without force, by night; in having, on the 24th November 1856, (Mitee Kartik Wud 12th, Shuké 1778,) in Vingorla, Talooka Malwan, Zillah Rutnagherry, stolen, from the platform (otá) outside the house of Sabla Govind Salgaumkur, a cloth value eight annas, the property of Rukmin, wife of Govind.

Prisoner admits that he has been twice imprisoned at Rutnagherry and twice at Wagotna. The Wagotna warrants are not in my records, and I do not deem it necessary to postpone the passing of sentence on prisoner for their production. Having been in charge of the Rutnagherry Jail whilst prisoner was in confinement there, and having myself released him a short time since, I have no doubt of the truth of prisoner's admission of his former convictions; but as I cannot depose in this case and also adjudicate it, and an objection might perhaps be taken to my allowing my own knowledge of prisoner's identity to affect the sentence which I may pass against him, I call in as witness a Karkoon in the office of the Nazir of the Court.

* * * * *

I proceed to pass sentence against prisoner.

Prisoner admits that he has been four times in imprisonment. It is proved that before he had been out of prison for two months he committed robbery again. The last sentence against prisoner has neither reformed him nor inspired him with any terror. I therefore, after considering the nature of prisoner's offence, and the punishment assigned thereto in Clause 4th, Section XXXVII. of Regulation XIV. of A. D. 1827, pass the following sentence.

That you; Nargo bin Ladko, be imprisoned for two (2) years, of which every alternate month, commencing with the second, is to be in solitary confinement, and the rest with hard labour, and then a third year with hard labour; and that you also receive fifty (50) stripes on your bare back with a cat-o'-nine-tails, twenty-five (25) one month from this date, and twenty-five (25) two months after. Subject to the confirmation of the Session Judge of the Konkun. I further order that, at the expiration of this sentence, you be sent to the Magistrate, that he may take such precautionary measures as he may deem fit for your future good conduct.

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RUTNAGHERRY.

Robbery by Night,
without Force.

Review by the Acting Session Judge.—I see no reason to interfere with the conviction, but I am of opinion that it was not within the competency of the Senior Assistant Session Judge to award more than six months' solitary imprisonment. I also consider that it is not necessary that the prisoner should be sent to the Magistrate for precautionary measures on his discharge from jail. I therefore alter the sentence to three years' imprisonment with hard labour, of which six months are to be in solitary confinement, the first to be enforced at the expiration of one month from the present date, and the others at intervals of not less than two months. The prisoner is also to receive two floggings of twenty-five stripes each, the first on the expiration of one month from present date, the second two months later.

H. P. St.G.
Tucker, Acting
Session Judge.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Acting Session Judge.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of the Criminal Return of the Rutnagherry Adawlut for December last, and to request that you will have the goodness to report whether you have confirmed the sentence in case No. 2, and, in the event of your having done so, to forward the proceedings.

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RUTNAGHERRY.

Robbery by Night,
without Force.

W. H. Harrison,
Puisne Judge.

Reply by the Acting Session Judge.—In acknowledging the receipt of your letter No. 170, of yesterday's date, I have the honour to forward extract from my proceedings in the case referred to, as well as the papers and proceedings held at the trial.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—The prisoner has been before imprisoned, but that does not make this very disproportionate sentence a suitable one for so trifling an offence, and I should mitigate it materially.

Resolution of the Sudder Foujdaree Adawlut.—The sentence is mitigated to three months' solitary confinement and the flogging, as ordered.

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BELGAUM.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 174 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the First Assistant Magistrate of Belgaum, W. H. HAVELOCK, on the 28th November 1856. Tried by the Session Judge, A. W. JONES, on the 23rd, 24th, and 26th December 1856. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder, attend-
ed with Robbery;
and Concealment
of Murder.

Prisoner.—Buslingowa kom Seevya, Lingayet, aged 25.

Charge.—Murder, attended with robbery (Regulation XIV. Section XXVI. Clause 1st, and Section XXXVII. Clause 1st, of 1827); in having, on Sunday, the 9th November 1856, (corresponding with Kartik Shood 12th, Shuké 1778,) at Goodoor, in the Hoongoond Talooka, in the Belgaum Division of the Dharwar Zillah, killed, in some manner unknown, a child named Seevee, of about three years of age, the daughter of Buslingapa, and stolen from the person of the said child ornaments valued at about Rs. 16-8-0, and clothes valued at 4 annas.

The prisoner is also charged with concealment of murder (Regulation XIV. Section XXVI. Clause 1st, and Section I. Clause 5th, A. D. 1827); in having been acquainted with the murder of the child, without having given any notice of the same to the proper Authorities.

Finding and Sentence by the Sessions Court.—The prisoner is charged with murder, and concealment of murder, and pleads not guilty.

It appears that, on Sunday the 9th November, the prisoner came to the house of the complainant, in Goodoor, and sat down near his wife, and began eating some bread she had with her, and that at the same time a young brother of hers, who had accompanied her, began playing with Seevee, a child of the complainant's; and the complainant's wife deposes that both the children went away with the prisoner.

The child was seen a little time after this by witness No. 11 at her house, which is some way from the complainant's; and the witness deposes that she saw the two children go, after leaving her, towards the house of the prisoner, passing beyond the complainant's, which is next door to it; but from this time the child was never seen alive. The wife of the complainant (for the complainant himself was away from Goodoor) reported the absence of her child to the Police Patel; but nothing was discovered, though the search was continued, until the following Saturday, in the morning of which day a Sepoy and two Shetsundees, who were searching a rocky hill a little way from the village, found first a little piece of hair, and then some small glass bangles, further on three small rib bones, and further still a mass of matted hair. Intelligence was immediately sent to the village, and the Police Patel, a Punch, and the complainant came out; and the hair and bangles, on being inspected by the complainant (then) and by his wife (subsequently), were at once identified as those which

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had belonged to their child ; and considering the evidence of the Civil Surgeon,* the Session Judge does not think there can be any doubt that these were the remains of the lost child, or that it was murdered for its ornaments, as stated in the Inquest Report, which was proved and recorded before the Court.

It is then shown by the Police Patel that, when inquiring of the neighbours about the loss of the child, the prisoner admitted to him that one Aya Tellee had told her he had murdered the child and begged her not to betray him ; and she also admitted that he had told her where he had hidden the ornaments taken from the child : and it is clearly proved by the complainant, the Police Patel, and two other witnesses, that the prisoner did go with them and some other persons to the courtyard of a Muth in Goodoor, and there take out with her own hands, from under a large stone, a number of ornaments, which were identified by the complainant, his wife, and witness No. 11, as those usually worn by the lost child. But though, connecting this with the proof that the child was with the prisoner on the last day of its life, and that the last thing seen of it was when it was going towards the prisoner's house ; and that, as shown by witness No. 12, the prisoner was seen going out towards the Moordee road, on the evening of the day the child was missed, with a bundle on her head, which, if its size is properly described, might certainly have

* *Deposition by the Civil Surgeon.*—I am George Feddes Forbes, 42 years of age, by religion a Christian, by sect a Protestant, profession Civil Surgeon at Dharwar.

I have examined the contents of the vessel now before the Court. It contains what appear to me to be the hair of a child of two or three years of age, and three pieces of rib, which also appear to have belonged to the body of a child of that age ; but as the ribs are incomplete, and have been partly eaten, I cannot speak positively to this point. There are also some glass rings or bangles in the pot, which, from their size, might have been worn by a child of the above age.

contained the body of a child of the age of Seève; and there is a strong suspicion that the prisoner must have committed the murder,—yet it is not evidence enough to prove it against her. In her statement, however (which was proved to have been given voluntarily by her), she admits she was told of the murder of the child on the Sunday when it occurred, as well as where the ornaments taken from it were hidden; and the Session Judge therefore considers her concealment of these circumstances from that day until the Saturday following is quite sufficient to warrant her conviction of concealment of murder; in having been acquainted with the murder of the child without having given any notice of the same to the proper Authorities.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed:—

That you, Buslingowa kom Seevya, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foudaree Adawlut.

In the Sudder Foudaree Adawlut; Minute by Mr. Frere.—Swalbowa having, before the Assistant Magistrate, denied her admission that the ‘cholee’ in which the ornaments were found belonged to her, or, as appears from the prisoner’s statement, the admission must have been that it was her daughter Mulowa’s, other evidence ought to have been obtained to prove it, which certainly ought to have been procurable, although the Patel Veelaputtee (witness No. 13) says he made ineffectual search to discover whose it was; for important points like this should never be left to be proved by the evidence of the prisoner’s relations.

Resolution of the Sudder Foudaree Adawlut.—The conviction and sentence confirmed.

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BELGAUM.

Murder, attended with Robbery; and Concealment of Murder.

W. E. Frere,
Puisne Judge.

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TANNA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 7 of the Criminal Return of the Magistrate of Tanna for November 1856. Tried by the Third Assistant Magistrate, R. W. HUNTER, on the 8th November 1856. Confirmed by the Magistrate, E. C. JONES, on the 18th November 1856. Proceedings and Report certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner Bhasker Abajee.]

Breach of Trust. *Prisoners.*—No. 1, Bhasker Abajee, Gowd Brahmin, aged 28.

2, Bulvuntrow Mahadew, Brahmin, aged 22.

Charge.—Breach of trust (Act XIII. of 1850, Section I.) ; in that, on the 3rd October 1856, (Mitee Ashwin Shood 4th, Shuké 1778,) at the ferry station in Moujé Datewré, Talooka Mahim, Zillah Tanna, prisoner No. 1, being entrusted, as a temporary measure, with the receipt of the ferry tolls, did fraudulently appropriate such monies so received, to the amount of Rs. 4-6-6, without crediting them to Government ; and, through fear of the offence being discovered, did, on the next day (the 4th October), return the said monies to the parties from whom he had received the same ; and in that, on the same day (4th) that prisoner No. 1 returned the monies, prisoner No. 2 (Bulvuntrow), whilst in the performance of his duties as toll-keeper at the said ferry station of Datewré, did receive the said monies, amounting altogether to Rs. 4-6-6, from the parties to whom prisoner No. 1 had returned them, and, instead of crediting to Government, did fraudulently appropriate the same.

Prisoners plead not guilty.

R. W. Hunter,
Third Assistant
Magistrate.

Finding and Sentence by the Third Assistant Magistrate.—A party of individuals, between forty and fifty in number, crossed the creek in a hired 'muchwa' from Arnala Fort to Datewré. After a stay of three or four days they set out to return, but, in the meanwhile,

the Tulatee (prisoner No. 1) had been placed in temporary charge of the ferry at Datewré. These people were informed by him that they could not return to Arnala without paying the toll both for coming and going. The Tulatee calculated that an aggregate sum of Rs. 4-6-6 was due from them. The said sum was accordingly produced, and they were permitted to cross without further let or hindrance. Subsequently the justice of this levy is questioned; the account books are examined, and no such item is found credited to Government. The truth of these facts is fully established, being even admitted by the Tulatee himself. It remains to be seen, therefore, to whom the money so raised was paid, and how the omission of the item in the books can be accounted for.

Unfortunately the evidence has been given with much hesitation and some contradiction, so as to render it difficult to sift the pure truth; moreover, all the witnesses seem to be to a certain extent interested parties. This must be considered in weighing the evidence.

Although the number from whom toll was demanded was considerable, yet they were all of one party, and therefore raised a contribution amongst themselves, and deputed three of their number to settle with the Tulatee. These three are witnesses in the case, and each declares that the sum of Rs. 4-6-6 was paid into the hands of the Tulatee, who furnished a receipt in return. The remaining witnesses in the case declare that on the following day the Tulatee called two or three others of the same party, amongst whom was the one who had possession of the receipt. He then took back the receipt and returned the money. Hence one important fact is clearly established, although denied by the Tulatee, which is, that the said sum was once paid into the Tulatee's hands.

Although the receipt had been transferred into other

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hands, yet it is no matter of surprise that the Tulatee should have been able to trace its course so accurately as to be able to single out its possessor, for the following reasons, which may also serve to explain other points of greater importance.

The party proceeding to cross the creek consisted entirely of the inhabitants of the small island of Arnala. Many of these possess fields on the border of the mainland, and must constantly be crossing the creek to work in them. To such persons, when they crossed for these purposes, an immunity from ferry tolls was granted until the period of the contract had expired. Whether or not these privileges are still enjoyed, and by all of these same individuals, is uncertain ; but it is evident, when the *double* toll was demanded from them, they at once questioned the justice of the demand, and the more so, because they had crossed the creek on the day before the period of the ferry contract was at an end ; and therefore they conceived that the fare there and back could not properly be demanded by a Government servant. They, however, yielded, intending at the same time to represent their grievance to higher Authority : with this object in view they placed the receipt in the hands of their Village Patel. It is not to be supposed that a matter of such universal dissatisfaction should have been hushed into silence by so large a number, hence the Tulatee might easily have discovered all their intentions. This will sufficiently account for his subsequent conduct. On receipt of the money he omitted to credit it ; he must have found out that discontent prevailed regarding the levy of it, and that there was a probability of his being complained against ; his knowledge that the Patel possessed the receipt showed this : he would naturally seek to rectify the matter without delay, and it is clear that rather than rectify it in the account books, he tried to disconnect his name from the transaction

altogether by returning the money and taking back his receipt. It is evident, therefore, that he received the said sum; and from his omitting to credit it, and his own inability to account for it satisfactorily, it is to be inferred that he appropriated it for the time being with intent to profit by it hereafter.

But the money is still missing; it must be in the hands of some person or persons. Prisoner No. 2 is charged with the final receipt of it; and this charge is supported by the evidence of the witnesses who were present when the money was returned by the Tulatee. Independently of this part of the evidence being delivered in a very unsatisfactory manner, it is also so much at variance with probability that it cannot justly be received for truth. Prisoner No. 2 has been recently advanced to the appointment of Ferry Karkoon at Datewré. If he was present at all on the occasion in question, he could only just have entered on his new duties; and if he received the sum at all, he must have received it in the presence of the Tulatee and other witnesses; and it is not at all probable that at such a time, and under such circumstances, he could have been induced at the sight of so small a sum to commit this crime.

Such an accusation seems rather to afford grounds for suspicion against his accusers, which their subsequent conduct confirms. If they really paid the money to prisoner No. 2, the cause of their original dissatisfaction was in no degree removed; they still had their complaint to make, and still required a receipt as a corroborating proof of payment. The day before, they took the precaution to place their former receipt in the charge of their Village Patel, and now they have actually returned to their homes without insisting on a receipt being given to them; and more than this, instead of immediately complaining against the conduct so reprehensible, they are content to sit quiet themselves, and about ten or

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twelve days afterwards indirect information reaches the Mamlutdar, which leads to the present investigation.

There seems to be only one way of accounting for this strange conduct. It is not improbable that their difference was settled by keeping the money returned by the Tulatee (and perhaps with something in addition), and that the latter either proposed or consented to this measure. It suits their own interests to maintain that they paid all that was alleged to be due from them. They can with greater advantage and greater safety say that they paid it to the new Ferry Karkoon instead of to the Tulatee, inasmuch as they thus convert the Tulatee, otherwise an enemy, into a partisan.

It has been before observed that a great part of the evidence is not of the most reliable nature; but there can be no doubt that, from the actual receipt of the money by the Tulatee, the absence of the sum received, the great improbability that prisoner No. 2 received it, and the inability of the Tulatee to account satisfactorily for its disposal under the circumstances above mentioned, the Tulatee fraudulently appropriated the said money; and, whether he returned it to those who paid it with a view to escape detection, or for any other object, he must be considered as having applied this sum "for a purpose other than that to which the same was applicable under the trust reposed in him."

Prisoner No. 1 (Bhasker Abajee) is convicted of breach of trust, and sentenced to suffer one (1) month's imprisonment. (Act XIII. of 1850, Section IX.)

Prisoner No. 2 (Bulvuntrow) is acquitted.

The missing money is to be levied from the parties who received it from the Tulatee, if it be found, after inquiry, that it was lawfully due from them in the first instance.

E. C. Jones,
Magistrate.

Confirmation by the Magistrate.—The prisoner No. 1 (Bhasker Abajee) having appealed against the above

decision, the proceedings are perused by the Magistrate, who records his opinion as follows:—There is no reason to doubt the correctness of the Assistant Magistrate's conclusions; the conviction and sentence are accordingly confirmed.

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Petition of Bhasker Abajee to the Sudder Foujdaree Adawlut.—[Praying that the sentence passed against him by the Assistant Magistrate might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for report.]

Return by the Magistrate.—The Magistrate of Tanna begs to report that the petitioner was tried on the 8th November last by the Assistant Magistrate for breach of trust, under Act XIII. of 1850, Section I., with another person named Bulvuntrow Mahadew; in that, on the 3rd October 1856, (Mitee Ashwin Shood 4th, Shuké 1778,) at the ferry station in Moujé Datewré, Talooka Mahim, Zillah Tanna, prisoner No. 1 (petitioner), being entrusted, as a temporary measure, with the receipt of the ferry tolls, did fraudulently appropriate such monies so received, to the amount of Rs. 4-6-6, without crediting them to Government; and, through fear of the offence being discovered, did, on the next day (the 4th October), return the said monies to the parties from whom he had received them; and in that, on the same day (the 4th October) that prisoner No. 1 (petitioner) returned the monies, prisoner No. 2 (Bulvuntrow), whilst in the performance of his duties as toll-keeper at the said ferry station of Datewré, did receive the said monies, amounting altogether to Rs. 4-6-6, from the parties to whom prisoner No. 1 had returned them, and, instead of crediting them to Government, did fraudulently appropriate the same. The petitioner was convicted, and sentenced for the same to one month's imprisonment.

The above decision was appealed against by the peti-

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tioner ; and the Magistrate, after the perusal of the proceedings, confirmed the conviction and sentence passed by the Assistant Magistrate under date the 19th idem, as Mr. Hunter's finding is written with much care, and shows that every consideration was given to the different bearings of the case.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings held before the Assistant Magistrate.

Return by the Magistrate.—The papers and proceedings connected with the case of Bhasker Abajee are certified, as called for in the extract of the Court's proceedings that accompanied this Precept.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—There is so much contradiction, not only in the evidence of the witnesses but in the Assistant Magistrate's finding in this case, that the conviction cannot be upheld.

Sookrya says that he, Jhinna, and Gopal remained and paid Bhasker, and Jhinna took a receipt ; this occurred at 9 A. M., and all that he knows more is hearsay.

Jhinna says that they paid the money, but he forgets who took the receipt ; but Sookrya gave it to Jowrya ; the money was paid at 3 P. M.

Gopal says Sookrya gave the money, and Bhasker gave him (Sookrya) the receipt, which Sookrya gave to Jowrya.; the money was paid between 12 and 3, and the receipt given at sunset to Jowrya ; and what happened afterwards about it he knows not.

Jowrya says Sookrya paid the money, and in the course of the evening brought him the receipt, and next morning, in presence of Govind, Gopal, and Dhurma, he gave back the receipt to Bhasker, and gave the money to Bulvuntrow.

Govind says that he saw Jowrya receive the money

from Bhasker and pay it to Bulvuntrow ; Dhurma alone, besides these, was present.

Dhurma was not examined.

The Assistant Magistrate, in his finding, says that the truth of the facts, among which is the payment of the money, are fully established, being even admitted by the Tulatee ; and afterwards he says that the sum was once paid into the Tulatee's hands is clearly established, though denied by the Tulatee. Now all that the Tulatee admits is that he told Bulvuntrow that Rs. 4-6-6 were due by the witnesses and their party, and that he saw them pay it to Bulvuntrow, but he denies the whole story of the receipt. Having satisfied himself of the fact that Bhasker did receive the toll, and that he did not credit it to Government, the Assistant Magistrate infers, as he cannot account for it satisfactorily, that he appropriated it with intent to profit by it hereafter. He disbelieves the story that the money was paid to Bulvuntrow, though supported by much the same evidence as he has allowed to prove the payment to Bhasker, and considers that their evidence affords grounds of suspicion against themselves—the witnesses being Jowrya and Govind, the only witnesses to the return of the receipt, and the reason for their deposing against Bulvuntrow rather than Bhasker is, because, by doing as they have done, they make Bhasker, otherwise an enemy, a partisan.

It therefore appears to me very clear that Mr. Hunter, though he has taken much pains with the case, has convicted the Tulatee (Bhasker), not upon the evidence, but upon some preconceived notions of his guilt. The evidence, if Mr. Hunter had believed it, would have convicted both Bhasker and Bulvuntrow. I think he was quite right in disbelieving Jowrya and Govind against Bulvuntrow, but he ought not to have believed what they said about Bhasker, as he could not disconnect the two, and I am very sure the contradictions in the other

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witnesses' statements prevent their being believed; and the conviction and sentence must, I consider, be annulled.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 89 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Deputy Magistrate of Belgaum, RAGHOBAN NARDHUN, on the 30th June 1856. Tried by the Acting Assistant Session Judge, J. R. ARTHUR, on the 12th, 13th, 14th, 25th, and 26th August, and 4th, 12th, 16th, and 17th September 1856. Reviewed by the Session Judge, A. W. JONES, on the 25th October 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Embezzlement.

Prisoner.—Moroba Narain, Brahmin, aged 29.

Charge.—Embezzlement in the Post Office (Act XVII. of 1854, Section LIV.); in that he, on or about the 21st November 1855, (corresponding with Kartik Shood 13th, Shuké 1777,) did fraudulently appropriate to his own use the sum of Rs. 22, the same being Government money, entrusted to his charge for the purpose of paying the Post Runners on the Kuladghee road for the month of October 1855.

J. R. Arthur,
Acting Assistant
Session Judge.

Finding and Sentence by the Assistant Session Judge.—The prisoner is charged with embezzlement, and pleads not guilty.

It appears that Mr. Moore is Inspecting Postmaster in the Southern Muratha Country, and, as such, has the general control of the Post Offices in the Province. Subordinate to him there are Deputy Postmasters, of whom prisoner was one, in charge of the Office at Belgaum. Mr. Moore's duties would seem to compel him to be continually absent from Belgaum, moving along the different lines of road, and the charge against prisoner is that he

took advantage of one of the occasions of Mr. Moore's absence to exact a fine of one rupee from each of the Runners along the Kuladghee line, and thus appropriated the sum of Rs. 22 to his own use. In order to ascertain what facilities there would be for the committal of an offence of this nature, the Court has endeavoured to learn what arrangement is in force for distributing their monthly wages to the different Runners along the line, and, in the event of a fine being inflicted, under what system it is levied, and how the sum is brought to account. The Court cannot feel that it has gained very satisfactory information on this subject. Mr. Moore represents the plan adopted to be this:—That the wages of the Runners throughout the line of road for the month previous to that in which they are issued are placed in the hands of a Duffedar or Overseer of the line, and he signs a receipt in the Office for the money, and, taking with him the acquittance roll, obtains the signature of each Runner along the line in acknowledgment of the payment of his salary, and the countersignature of the Patel, or some other respectable person, as attesting witness. Should a fine be levied, Mr. Moore says that although the deduction is made in the first instance, the Duffedar nevertheless gives an Office receipt, as though the money had been paid to him in full, and that the Runners likewise sign the acquittance roll for the full amount of their salaries. The Deputy Postmaster of Dharwar, who has been examined before the Court, on the other hand, deposes that it is customary for the Duffedar only to give a receipt for the actual amount of money placed in his hands, and that, if a fine is levied, an entry to that effect is at the time made in the daily cash book, and that the amount is deducted in the first instance. Again some Overseers state that it is the practice in the Belgaum Office for them to receive the full amount of the salaries from the Office and give a

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receipt accordingly, and to levy the fines as they pass along the line after the acquittance roll has been signed by each Runner, and that they remit to the Office the balance after they have completed the journey. The Court has not had the means of judging, by documentary evidence of any kind, which of these various methods is actually pursued. Of the witnesses examined, Mr. Moore certainly should be most capable of giving correct information in the matter. It appears, however, improbable that an Overseer should be required to give a receipt for money which he does not receive, such receipt being merely an Office document, apparently intended to serve as a check on him. Should what Mr. Moore says be true, it becomes a matter of serious difficulty, as a general rule, to determine whether, should an embezzlement of money be made, the fraudulent act has been committed by a Deputy Postmaster or an Overseer. The case against the prisoner is as follows:—Mr. Moore deposes that during the month of March he travelled along the Kuladghee line, and complaint was then made to him by the Dawk-bearers that in November they had been fined Rs. 1 each out of their October salaries, though they had been guilty of no fault. On the 22nd March Mr. Moore says that he returned to Belgaum and questioned Moroba on the subject, and, finding his explanation unsatisfactory, taxed him with having appropriated the money, and adds that he (Moroba) acknowledged having done so, and in the course of the same afternoon refunded the money, which was at once sent off to the Runners who had been fined, and that Moroba was in consequence suspended from his appointment. Now it is evident from this deposition either that Moroba is guilty of the offence with which he is charged, or else that Mr. Moore has most deliberately stated on oath that which he knew to be false. In the case just disposed of, in which Moroba was accused of fraudulently appropriating money under his care

due to the head of Stamps, the Court had occasion to remark, with regard to Mr. Moore's evidence, that his memory might have failed him with regard to what had occurred, and that, as he had not taken the precaution of making a memorandum of the state of the Treasury when he examined it, and subsequently very incautiously allowed different people of the Office access to it, all of whom would have had an object in misleading him and throwing blame on prisoner.

Much of his (Mr. Moore's) deposition admitted of explanation not unfavourable to prisoner. There is room for no such conclusion in this instance. If what Mr. Moore says be true, he could not have failed to recollect what occurred, and the Court sees no reason for supposing that he would willingly state what is false. But Mr. Moore's testimony is by no means unsupported by other evidence. The Duffedar Hybajee, who had been in November but newly appointed as Overseer on the line, deposes that Moroba gave him the money for the Runners on the line, having first deducted the amount of the fines; that he nevertheless was required to give a receipt for the full sum; that he objected to this, but that prisoner overruled his objections by saying that it was the custom in such cases for the Overseers to give a receipt in full; and that, as he was new in the Office, and knew no better, he did as he was told without further remonstrance. Some clerks who were employed at the Office at the time represent that they were present during the time of this interview of prisoner with the Overseer, but the Court cannot place much reliance on their testimony, though it confirms the Overseer's, as they have a manifest interest in procuring the prisoner's downfall and securing Mr. Moore's favour by that means. The statements of these persons vary in matters of detail, and it is very probable that they were too much occupied in their own duties to heed much of what was passing between

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prisoner and the Overseer with regard to the money. Again, several of the Dawk-bearers have been examined before the Court; they one and all say that they were fined in November, and the fine was subsequently remitted, and the money sent them after they had brought the matter to Mr. Moore's notice. There is further documentary evidence to show that this fine was inflicted, in the shape of a report from the Duffedar, after his arrival at Kuladghee, to the Deputy Postmaster, stating that he had paid each of the Runners his Rs. 4. This document was endorsed in the prisoner's handwriting, with the date of its reaching the Post Office; it was not found in the Dufter till after the commencement of the Magisterial investigation; hence it is that doubts are cast on its genuineness. There are also the receipts of the Runners to show that they subsequently received the sum of Rs. 1 each. Prisoner, in his defence, states that he did not withhold from the Runners any portion of their salaries for the month of October, and denies having acknowledged to have done so before Mr. Moore, or refunded to him the amount of the fine. He enters into a long explanation, and produces documents, to show that Mr. Moore bears him ill-will, and has through malice brought this charge against him. This matter bears too indirectly on the case for the Court to enter into it very minutely; it need therefore merely be remarked, that so far from this appearing to be the case, it would seem that prisoner has exercised a more powerful influence over Mr. Moore than from their relative positions was to be expected or desired. With regard to the document brought before the Court, purporting to be the Duffedar's report, prisoner objects that it is palpably a forgery, written subsequent to the commencement of the investigation, with the express object of working his ruin. The Court observes that though prisoner brought forward a considerable

amount of evidence to prove this before the Magisterial Authority, no such course has here been adopted before itself, and no attempt made to show that the endorsement is not in prisoner's handwriting. The Court has seen so much of false documents, and is so fully aware of the facility and heartlessness with which they are fabricated in the most trifling matters or for the basest purposes, that it would not put much reliance on this one, especially when it is considered that the manner in which it was discovered is not altogether free from suspicion. At the same time the Court cannot condemn the document on account of the delay with which it was found, but would rather express surprise that it was found at all—such is the confusion which appears to prevail in Mr. Moore's office. Moroba further endeavours to prove his innocence by attempting to show that Mr. Moore is guilty of suborning witnesses, consequently one witness (Bewana, No. 52) appears, and tells the Court that Mr. Moore spoke to him apart, and told him to swear that Moroba had offered him a bribe of Rs. 15, and on account of his refusing to do this wickedness Mr. Moore then and there dismissed him. The Court is amazed that prisoner should have ventured to bring evidence such as this before it, showing as it does the utmost ignorance of English character, and attributing to Mr. Moore an amount of combined cunning and folly not to be found in a European. Moroba, lastly, asserts that he was absent from Belgaum from the morning till late on the evening of the 22nd March, and also declares that Mr. Moore too was in the districts. To prove the former of these points he calls for the evidence of two witnesses; one of these was examined before the Deputy Magistrate, the other was not. Of these the Court discredits the latter, and considers it possible that though prisoner may have visited the former during his absence from the Post Office, and possibly have obtained money from him, yet

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that this witness has exaggerated the length of time prisoner passed in his company. Prisoner called for Mr. Moore's private books and other documents to prove his absence from Belgaum on the day in question: of these one showing the date up to which Mr. Moore drew travelling allowance was examined in Court, but does not bear out prisoner's representation. The Court, then, having carefully remarked on the evidence before it, and no less carefully abstained from attaching weight to the evidence of clerks in the Office, who may be considered as likely to be to a certain extent biassed against prisoner, must express its conviction that Moroba is guilty of the offence with which he is charged; in that he, on or about the 21st November 1855, (corresponding with Kartik Shood 13th, Shuké 1777,) did fraudulently appropriate to his own use the sum of Rs. 22, the same being Government money, entrusted to his charge for the purpose of paying the Post Runners on the Kuladghee road for the month of October 1855.

The sentence of this Court therefore is, that you, Moroba, undergo twelve (12) months' imprisonment with hard labour, and two (2) months' solitary confinement, one month previous to and one month on the completion of the term of ordinary imprisonment. (Act XVII. of 1854, Section LIV.)

The Court would remark that the Deputy Magistrate should not have allowed Mr. Moore to remain present throughout the course of the investigation that took place before him. Mr. Moore, being a witness, was liable to re-examination, should his deposition and that of other witnesses be at variance: the Deputy Magistrate, by permitting Mr. Moore's continued presence, deprived himself of the advantage that he would otherwise have had in endeavouring to ascertain the facts of the case, had contradictory statements been made before him. There was also room for fear lest the witnesses, who

were Mr. Moore's official subordinates, should be unduly influenced by his presence.

Review by the Sessions Court.—The prisoner, who is a Deputy Postmaster of Belgaum, is charged with having fraudulently appropriated Rs. 22.

The charge is brought by Mr. Moore, the Postmaster, who deposes that in the month of February certain Runners complained to him of having been fined, and that on reaching Belgaum, on 22nd March, he immediately inquired about this of the prisoner, who admitted having fined them, and said he had done it by his (Mr. Moore's) orders; but not being able to show any such order, Mr. Moore says he went out of the Office and returned with the money, giving no explanation. At this time there was present Mr. Moore's writer (Luxumun), and one Threevenk Swamee was sitting outside the room, and these two persons confirm this statement.

That the fine was imposed is deposed to by the Duffedar of the Office and five of the Runners on the line.

The prisoner denies all this: he denies having fined the Runners and having repaid the money, as sworn to by Mr. Moore. Now there is a report in the case, in which mention is made of the fine, bearing, it is said, the prisoner's endorsement, and the refutation of the prisoner's denial would therefore have been made out clearly if this endorsement had been proved; but this was not done, and it ought not therefore to have been allowed any weight against him.

The case, however, rests chiefly on the value of Mr. Moore's testimony. The Session Judge can see nothing to make it probable he is so unscrupulous a person and so regardless of the obligation of an oath as the defence would wish to make him out. The conviction is accordingly confirmed.

The Act only mentions "the Magistrate" as the Authority before whom these cases are to be sent; but as

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the extent of the punishment which may be awarded under it exceeds the powers of a Magistrate, there seems no objection to cases being sent for trial to the Sessions Court.

With regard, however, to the punishment assigned to the offence by the Acting Assistant Session Judge, though the crime no doubt is enhanced by the position of the prisoner, yet the Session Judge is of opinion that, considering the limit of the punishment assigned in the Act is two years, the sentence passed is severe, and therefore determines to mitigate it to one month's solitary imprisonment and six months' imprisonment, and the hard labour is struck off under Clause 2nd, Section VII. Regulation XIV. of 1827.

Resolution of the Sudder Foujdaree Adawlut.—Two questions arise in this case: one, has the Assistant Session Judge jurisdiction to try it? and the other, is the charge proved?

The Session Judge has remarked, that as the extent of the punishment which may be awarded under Section LIV. Act XVII. of 1854 "exceeds the powers of a Magistrate, there seems no objection to cases being sent for trial to the Sessions Court"; but though the punishment assigned in this Section does exceed the power the Magistrate has under Section XIII. Regulation XII. A. D. 1827, and Regulation IV. A. D. 1830, it does not exceed, nor even equal the power the Magistrate had under Clause 4th, Section XI. Regulation XVI. A. D. 1827; and as the Court know of no Act or Regulation which prevents the Magistrate's jurisdiction being extended, and the Section and Act above quoted expressly say "on conviction before a Magistrate," they are of opinion that the Magistrate alone has power to convict and punish in these cases, and that the Assistant Session Judge's proceedings must be annulled for want of jurisdiction.

The conviction and sentence are accordingly annulled.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges. 1857
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[Petition of Balajee Akoba to the Sudder Foujdaree Adawlut. Refer- AHMEDNUGGUR.
red to the Magistrate of Ahmednuggur, C. E. F. TYTLER, on the
26th November 1856.]

Petition of Balajee Akoba to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate, requiring him to furnish security in Rs. 500 for one year, may be annulled.] Order to furnish Security annulled.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for report.]

Return by the Magistrate.—The Magistrate has the honour to report, that after a prolonged investigation, the Deputy Magistrate stated as follows in his finding:—

“The Acting Deputy Magistrate cannot close these proceedings without repeating that the complainant and the prisoner are inveterate and bitter enemies, and if appropriate restraint is not placed upon their conduct, they will give endless trouble to the people, and to the Authorities, by preferring, each in his turn, false and malicious complaints against one another. It will therefore be suggested to the Magistrate, by forwarding these proceedings for his inspection, that both the complainant and the prisoner be bound over by heavy securities (say each in Rs. 500 fine, commutable to one year’s imprisonment) to keep the peace with one another for five years, in default to be imprisoned for that period.”

In reviewing these proceedings the Magistrate decided that “it will be sufficient to take a recognisance bond from complainant of Rupees 500, commutable to one year’s imprisonment.”

It is against this bond that petitioner appeals; but as the restriction placed on petitioner has been already so

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Security annulled.

much modified, the Magistrate trusts that the Court will not modify it further. The petition is returned.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report the circumstances of the case which gave occasion to the order for security being given, and what other cases there have been between these parties which render it necessary, in order to save the Authorities trouble, that they should be bound over not to complain against one another.

Return by the Magistrate.—In this case petitioner was required, with a view to peace and good order, to give a recognisance bond.

The circumstances of the case were as follows :—

Gungaram wulud Keshow preferred a complaint through his companion, named Luxumun wulud Rama, against four individuals, among whom petitioner was one, charging them with embezzlement of the property of a deceased Jungum. The charge, however, was not proved against petitioner, who sought revenge by preferring, as appeared from the investigation, a malicious complaint, in September 1855, against Gungaram, charging him with conspiracy to ruin petitioner.

In the mean time Gungaram and his companion Luxumun disappeared, and the Police were in search of them. The Acting Hoozoor Deputy Magistrate called petitioner before him in February last, and demanded of him what proofs he had in support of his complaint; and petitioner refused to adduce any, saying he would name his evidences as he might find it necessary to do during the trial. This refusal of petitioner gave the Acting Hoozoor Deputy Magistrate reason to apprehend that petitioner was thinking of suborning evidences, and his apprehensions were fully realised during the investigation of the case.

The enmity between Gungaram and petitioner had its

origin in the seduction of Gungaram's wife by petitioner, which grew to such a height that each endeavoured to ruin the other. When the Acting Hoozoor Deputy Magistrate decided to discharge Gungaram he was fully convinced, from the past conduct of Gungaram and petitioner, that neither would remain at peace; he considered, therefore, that some precaution was absolutely necessary to keep *both* under restraint, with a view to *maintaining peace and good order*: he accordingly recommended to the Magistrate that security might be demanded from them, but the Magistrate ruled that security be taken from Gungaram and recognisance from petitioner.

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AHMEDNUGGUR.
Order to furnish
Security annulled.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the recognisance bond.

Return by the Magistrate.—The recognisance bond is herewith forwarded, as required in the extract from the Court's proceedings which accompanied this Precept.

Resolution of the Sudder Foujdaree Adawlut.—The Court being of opinion that the recognisance taken in this case would preclude petitioner from prosecuting even a just claim against Gungaram, determine to annul the Deputy Magistrate's order, and direct the recognisance bond to be cancelled.

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February 11.

DHARWAR.

Precautionary
Measures.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Reference from the Magistrate of Dharwar, T. OGILVY, on the 23rd January 1857, to the Sudder Foujdaree Adawlut, recommending the detention for another year, in Jail, of Sumsheerdeen wulud Khodooma.]

Letter from the Magistrate of Dharwar to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour, with reference to Circular Order of the Sudder Foujdaree Adawlut No. 312, dated 17th December 1844, to request that you will do me the favour to obtain authority from the Judges for the further detention, in confinement, for one year from the 6th May next, of prisoner Sumsheerdeen wulud Khodooma, in default of finding satisfactory security for his future good conduct.

The following remarks by the Assistant Magistrate, Dr. Forbes, describe the prisoner's character:—

“The prisoner Sumsheerdeen wulud Khodooma, age 30, caste Mussulman, occupation Durzee, is sent up by the Session Judge of Dharwar, with extracts from proceedings on two trials for robbery without force, on both of which the prisoner was acquitted for want of sufficient evidence, the Session Judge at the same time remarking, that in reality there was very little doubt about the matter of his guilt.

“The stolen property on these two occasions amounted in value to Rs. 434, consisting chiefly of a gold watch, chain, seals, and rings, and belonging to Officers of the Regiment residing within the Fort.

“The evidence against the prisoner, in both cases, rested chiefly on his confession, corroborated by the statements of his wife and mother, and supported by the discovery of the stolen property, so that there can be no reasonable doubt of his guilt.

“The prisoner bears a notoriously bad character; he has been twice convicted of robbery, and has undergone punishments of ten and eight months’ imprisonment respectively. The Assistant Magistrate is therefore of opinion that security should be taken for his future good conduct.

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Precautionary
Measures.

“The prisoner Sumsheerdeen is required, under Regulation XII. Sections XXIV. and XXV. of 1827, to furnish two securities in fifty rupees each, that he will abstain from committing robbery, also from receiving stolen property, or in default to be imprisoned for a period of three years, or until the occasion be past.

“His securities, in default and failing payment, to suffer each six months’ imprisonment.”

Resolution of the Sudder Foujdaree Adawlut.—The further detention is sanctioned, unless the prisoner is a foreigner, in which case the Magistrate should expel him the Zillah.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges. 1857
 { ROBERT KEAYS, } February 18.

[Case No. 12 of the Criminal Return for October 1856. Tried by the District Deputy Magistrate, KRISTNAJEE WASOODDOO, on the 25th September 1856. Reviewed by the First Assistant Magistrate, F. S. CHAPMAN, on the 13th October 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Ramsook wulud Chunooram.] AHMEDNUGGUR.

Prisoners.—No. 1, Ramsook wulud Chunooram, Marwadee, aged 35. Breach of Trust.
2, Geerdaree wulud Rutunchund, Marwadee, aged 24.
3, Gungaram wulud Oodaram, Marwadee, aged 40.

Charge.—Against prisoner No. 1, breach of trust (Act XIII. of 1850, Section VIII.); in having, exact

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AHMEDNUGGUR.

Breach of Trust.

date unknown, but during the months of April and May 1856, (corresponding with Falgoon, Chuitru, Wuishak, Shuké 1777-78,) at the town of Sungumnair, Zillah Ahmednuggur, appropriated to his own use property consisting of silk and 'loogdas,' the former valued at Rs. 90 and the latter at Rs. 60, entrusted to his care by the complainant, Vitulsing wulud Gunputsing, thus abusing the trust reposed in him. Prisoners Nos. 2 and 3 (under Regulation XIV. of 1827, Section XLI. Clause 1st), with having received from prisoner No. 1 the whole or a portion of the abovementioned property, knowing, or having evident grounds to suspect that the said property had been wrongfully come by by prisoner No. 1.

The prisoners plead not guilty.

Krishnajeo Wa-
soodeo, District
Deputy Magis-
trate.

Finding and Sentence by the District Deputy Magistrate.—On considering the particulars of this case, it appears that the silk and the loogdas belonging to the complainant were, as confessed by prisoner No. 1 in his deposition (No. 10), and as shown in the letters Nos. 3, 4, and 5, entrusted to him for sale. When entrusted with the above things, the prisoner took to himself eight loogdas, of the value of Rs. 12-12-0, in liquidation of a former debt, and obtained Rs. 40 (as he admits) by pawning the silk through the instrumentality of prisoner No. 2, which sum is not credited in the account books (No. 33) of the shop; but prisoner does not show that the said amount was paid to the complainant, or employed for his use, with his (complainant's) concurrence. So the charge of having fraudulently appropriated the sum of Rs. 52-12-0 (Rs. 40 on account of the silk, and Rs. 12-12-0 on account of eight loogdas) to his own use, is proved against prisoner No. 1; and he is accordingly sentenced, in conformity with Act XIII. of 1850, Section IX., to six (6) months' imprisonment without hard labour. Subject to the confirmation of the Magistrate.

Prisoners Nos. 2 and 3 are charged with having received the articles which had been fraudulently obtained by breach of trust, and which they had good and sufficient reason to suspect were so obtained; but the prisoner No. 3 (Gungaram) is acquitted of the charge for want of sufficient evidence, while prisoner No. 2 (Geerdaree) having pawned the article, paid Rs. 40 to prisoner No. 1 (Ramsook) and kept Rs. 10 for himself, omitting to make the entry in his account, as he ought to have done; *i. e.* he did not credit Rs. 50, nor did he debit Rs. 40 in the name of prisoner No. 1, but only credited Rs. 10 in his account book, and entered his (Ramsook's) name (as it appears) afterwards. This name is not in the extract of the account book obtained by the Police Amuldar; and from this it is proved that he (prisoner No. 2) knowingly obtained the article and pawned it, and therefore he is, in conformity with Regulation XIV. of 1827, Section XLI. Clause 1st, sentenced to pay a fine of thirty (30) rupees, or to undergo two (2) months' imprisonment without hard labour.

Confirmation by the First Assistant Magistrate in Charge.—Read and recorded the proceedings held before Krishnajeo Wasodeo, District Deputy Magistrate of Ahmednuggur, on which proceedings one Ramsook wulud Chunooram was convicted, under Section VIII. of Act XIII. of 1850, of breach of trust, and sentenced (subject to the confirmation of the Magistrate) to undergo six months' imprisonment without labour. The property alleged to have been embezzled consisted of eight loogdas valued at Rs. 12-12-0, and silk valued at Rs. 90. That this property was entrusted to the care of the prisoner, and did not form part of the stock in trade of his firm, is proved by the evidence of the prosecutor, corroborated by certain letters in which the prisoner acknowledged the receipt of the property in trust from the prosecutor. That it did not, too, form part of

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Breach of Trust.

F. S. Chapman,
First Assistant
Magistrate in
Charge.

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the prisoner's own stock in trade, is conclusively established by the fact of the property not being credited in the books of the firm. First with regard to the loogdas :—The prosecutor had entrusted in all thirty-four loogdas to the prisoner : of these four had been sold and their proceeds credited to him ; and of the remaining thirty, eight are proved to have been sold to one Gungaram, and their proceeds credited by Gungaram to the prisoner ; whereas the latter gave the prosecutor no credit for them. The remaining twenty-two are not forthcoming, and were also embezzled by the prisoner ; but as they have not been traced, they have not formed part of the charge against the prisoner. The prisoner admits having the loogdas ; it has been shown that he did so on trust as an agent of the prosecutor, and it is further shown that he disposed of four of them in a proper manner. What has become of the remainder ? and why should he have sold eight of them in his own name and not credited the prosecutor with their proceeds ?

With regard to the silk, the above remarks equally apply. The prisoner admits having received it ; it is shown that he entrusted it to one Geerdaree to pawn, and that this man (Geerdaree) did pawn it to one Bhikajee for Rs. 50. The prosecutor is not credited with these proceeds, and they do not appear at all in the prisoner's books. Why, too, it may be asked, if the transaction was a *bona fide* one, did the prisoner have recourse to the intermediate agency of Geerdaree ?

The conviction and sentence of the Deputy Magistrate are confirmed.

The Deputy Magistrate has also convicted Geerdaree of receiving stolen property, knowing it to be such, and sentenced him to pay a fine of Rs. 30. I do not think the evidence supports this charge, as Ramsook would appear to have been an established trader, and con-

sequently there is no proof to show that, at the time the prisoner received the silk from him, he was aware it was wrongfully come by. Conviction annulled, and fine to be returned.

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Breach of Trust.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the papers. He has only sent up the proceedings in English and Murathee, though he was required to certify the papers also.

Return by the Magistrate.—The papers are forwarded, as required in the extract from the Court's proceedings which accompanied this Precept.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

* *Present,* { WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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[Cases of Balajee Nursinwh and another. Tried by the First Assistant Magistrate, J. F. ARMSTRONG, on the 3rd, 4th, and 11th April 1856. Confirmed by the Magistrate, W. A. GOLDFINCH. Proceedings certified to the Sudder Foujdaree Adawlut, on appeal.]

Prisoners.—No. 1, Balajee Nursinwh, Brahmin, aged 35.

2, Wudkapa bin Sanjewapa, Dhun-
gur, aged 40.

Making Use of
Public Money for
his own advantage;
Forgery;
and Fraud in the
exercise of their
Official Functions.

Charge.—Against prisoner No. 1, making use of public money for his own advantage; in having, in 1848-49, (Shuké 1770-71,) while in charge of the attached village of Wadawadagee, Talooka Mungolee, received from one Hunmunta, wulud Kunkapa Rs. 7, his revenue for 1258 Fuslee (1848-49), and only credited to him Rs. 4, and appropriated the remaining Rs. 3 for himself and entered them as remission in his 'khard.' In another case, making use of public money for his

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own advantage; in having, in 1849-50, (Shuké 1771-72,) in the attached village of Wadawadagee, Talooka Mungolee, received from one Gopalia wulud Bujungapa Rs. 17, his revenue for 1259 Fuslee, and only credited to him Rs. 14, and appropriated the remaining Rs. 3, and entered them as remission in his khird on 1st November 1851. In another case, making use of public money for his own advantage; in having, in 1851-52, (Shuké 1773-74,) in the attached village of Wadawadagee, Talooka Mungolee, received from one Gopalia wulud Bujungapa Rs. 17, revenue for 1261 Fuslee, and made use of the same for his own advantage. In another case, making use of public money for his own advantage; in having, in 1849-50, (Shuké 1771-72,) in the attached village of Wadawadagee, Talooka Mungolee, received for 1259 Fuslee Rs. 14 from one Luxumuna oorf Lukapa wulud Ningapa, and credited to him Rs. 10, and appropriated to himself Rs. 4, and on 1st November entered them in his khird as remission. In another case, making use of public money for his own advantage; in having, in 1850-51, (Shuké 1772-73,) while in charge of the attached Jagheer village of Moujé Wadawadagee, Talooka Mungolee, received from one Buslingiah wulud Eerthiya, in two instalments, the sum of Rs. 18, payment of revenue for 1260 Fuslee (1850-51), and made use of the same for his own advantage, and on 1st November 1851 made an entry in the 'rozkhird' that the sum of Rs. 18 had been given in remission to the above Buslingiah. In another case, forgery; in having, on 15th October 1852, (Mitee Ashwin Shood 2nd, Shuké 1774,) in the attached village of Wadawadagee, Talooka Mungolee, forged a document, that one Wudkapa wulud Sunjiwapa Patel would be answerable for the revenue due by seven debtors, if not made good by the end of December 1852, and affixed thereto the mark of the said Wudkapa, and the names of two witnesses (Bapoo and Gonlapa). In

another case, making use of public money for his own advantage ; in having, on 28th March 1847, (Mitee Chuitru Shood 12th, Shuké 1769,) in the attached village of Areshankur, Talooka Mungolee, received from Sungolapa wulud Apa and Chundrapa Rs. 30 revenue for 1256 Fuslee, and credited to Sungolapa Rs. 10 and to Chundrapa Rs. 16, and appropriated the remaining Rs. 4 for himself, and written them off as remissions. In another case, making use of public money for his own advantage ; in having, in 1846, March or April, (Shuké 1767-68,) in the attached village of Areshankur, received from one Somapa wulud Apa Rs. 20 for 1255 Fuslee in cash, and Rs. 6 proceeds from the sale of his crop, and made use of the total Rs. 26 for himself, and written them as remissions in his khird.

In another case, against prisoners Nos. 1 and 2, fraud in the exercise of their official functions ; prisoner No. 1 in having, on 12th November 1851, (Mitee Kartik Shood 8th, Shuké 1773,) in Monjé Wadawadagee, Talooka Mungolee, being a Zuptee Karkoon, written off as remission in his accounts the sum of Rs. 22, which he had received as revenue payments from Buslingiah and others, and appropriated to himself. Prisoner No. 2, in having, on above date and place, being Revenue Patel, affixed his mark to the above entries, knowing them to have been false.

The prisoners plead not guilty.

Finding by the First Assistant Magistrate in the First Case.—Complainant states that he paid prisoner Rs. 7, but his two witnesses only saw him pay Rs. 3 ; the Assistant Magistrate does not therefore consider the charge proved against the prisoner, although he has no doubt of his guilt. Prisoner is acquitted.

Finding in the Second Case.—Owing to the discrepancies in the evidence for the prosecution, the Assistant Magistrate does not consider the charge proved against the prisoner, and accordingly acquits him.

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J.F. Armstrong,
First Assistant
Magistrate.

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Finding in Third Case.—The Assistant Magistrate does not consider the charge proved against the prisoner, and accordingly acquits him.

Finding in the Fourth Case.—The Assistant Magistrate considers that there can be no doubt that prisoner embezzled the Rs. 4, and that, in order to conceal the fraud, and to prevent complainant being called upon to make good the Rs. 4, Rs. 10 only having been credited to him, he very quietly wrote off the Rs. 4 as remission. Prisoner is convicted of the charge; but sentence is reserved, there being other charges against him.

Finding in the Fifth Case.—Prisoner states that for 1260 Fuslee he and Wudkapa Patel collected the revenue; did not receive any revenue from prisoner; Rs. 18 were outstanding in Buslingiah's name; sent for him twice but he would not attend; went then to Mungolee; in 1261 Fuslee, on 1st November, he by an oversight entered the Rs. 18, as remission; did not tell the Mamlutdar that Buslingiah had not paid his revenue dues of Rs. 18. Complainant says he paid prisoner and Wudkapa Patel Rs. 18, revenue, and did not get a receipt. His witnesses say they saw him pay the money. Prisoner altogether denies the receipt of the money, and says he dunned him for the money but could not get it, and did not make any report to the Mamlutdar. He also states that by an oversight he wrote off the Rs. 18 as remission. This writing off the remission appears to have been done to prevent complainant's being called upon to pay Rs. 18, which, if unrealised, must have made him a defaulter, and thereby made prisoner's guilt at once apparent. Prisoner is convicted of the charge; but sentence is deferred, there being other charges against him.

Finding in the Sixth Case.—The prisoner states that the Ryots who were defaulters offered Wudkapa as their security, and that Wudkapa, in the presence of the Kar-koon, told him to write out the bond, and he did so.

His witness, Naro Krishna, sixth Karkoon of Indee, denies prisoner's assertion that the bond was written in his presence, and says he did not even see it signed or witnessed. He also states that the Ryots whose names were in the bond were defaulters. The Karkoon went to Wadawadagee to examine the accounts and receipt books; and as there were balances outstanding against the parties mentioned in the bond, they would naturally be called upon to pay up, and would of course say that they owed nothing, having paid up the whole of their dues. To prevent this exposure, prisoner draws up the security bond, and promises to realise from the defaulters, in the hope that the matter would end there. Prisoner is convicted of the charge; but sentence deferred, there being other charges against him.

Finding in the Seventh Case.—Prisoner is proved to have received Rs. 16 from complainants. He denies it, and says he did not collect the revenue; but the witness Ningo Temajee has put in a letter, in prisoner's handwriting, in which prisoner writes to him a 'yadee' of the money he has collected in the village of Areshankur, and tells him to give receipts for the amount only. Rs. 26 were credited to the complainants, and the remaining Rs. 4 were, without authority, written off as remissions. Prisoner is convicted of the charge; but sentence is deferred, there being another charge against him.

Finding in the Eighth Case.—Prisoner states that he promised to attach Somapa's property; came to the Kutcheree; does not know what took place; Somapa's balance is still outstanding; has no evidence to show that Somapa carried off the property that was attached; did not receive any revenue from Somapa; has no evidence; sent the people, Somapa and others, who had carried away the crop that was attached, to the Mamlutdar; cannot find any report on the subject, and therefore

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thinks that he himself took them to the Mamlutdar. Prisoner is proved to have received Rs. 20 and to have attached Somapa's property for the remaining Rs. 6, and to have sold some grain and 'kurbée'; none of the witnesses being able to state the sum realised at the sale. Prisoner denies that he received the money (Rs. 26); says that he attached the crop, but that Somapa and others carried it away, and that he sent them to the Mamlutdar; but does not remember whether he took them there himself or sent them with a report. He has no evidence that the crop was carried off, by which realisation of the revenue was prevented. The Rs. 26 were written off as remissions—a proof of the guilt, as he had no authority for doing so. Prisoner is convicted of the charge; but sentence is deferred, there being other charges against him.

Finding in the Ninth Case, and Sentence in all.—The Assistant Magistrate considers the charge proved against prisoner No. 1.

He does not consider it proved against prisoner No. 2, as there is no evidence that he made his mark knowing the entries to be false, or that he made it at all. He is an extremely ignorant man, cannot read or write, and appears to have been a mere tool in the hands of prisoner No. 1.

Prisoner No. 1 is sentenced, on this and the preceding five convictions, to one year's imprisonment with hard labour.

W. A. Goldfinch,
Magistrate.

Confirmation by the Magistrate.—On appeal the Magistrate reviewed the six cases.

The Magistrate observes that it was needless to make the transaction charged against prisoner No. 1 the ground of three distinct charges, as has been done, since the charge of fraud involves the appropriation to his own or some other person's use the money regarding which the false entry was made. The Magistrate is satisfied of the prisoner's guilt, and confirms the sentence.

In case No. 3, wherein prisoner is charged with forgery, the Magistrate does not concur in the conviction.

In cases Nos. 5 and 8, the charge appears clearly proved in the former, but not so in the latter. The delay which has occurred in the disposal of these charges, and the confused manner in which they have at last been prepared, is very discreditable to the Mamlutdar.

Precept issued by the Sudder Fowjdaree Adawlut to the Magistrate.—As the Magistrate states that the offences were committed in villages not subject to the Regulations, he is to be requested to report the authority under which he proceeded against the prisoners.

Return by the Magistrate.—In reply to this Precept the Magistrate has the honour to report, that the petitioners were tried under the authority vested in the Collector and his Assistants by the Government letter No. 1226, dated 18th March 1853, in the Political Department.

Further Precept issued by the Sudder Fowjdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the letter he alludes to. He was requested to state the authority under which he proceeded against the prisoners, and he quotes a letter vesting authority in the Collector and his Assistants. His return requires further explanation.

Return by the Magistrate.—In reply to the within Precept, the Magistrate begs to forward copy of the Government letter No. 1226, dated 18th March 1853.*

* The following is the letter alluded to :—

Letter from the Chief Secretary to Government to the Collector of Sholapore.—I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter No. 74, dated the 29th January last.

In reply, I am desired to inform you, that the Collector of Sholapore is only to try such cases arising at Akulcote as involve capital punishment, imprisonment for life, or transportation, in accordance with the Rules now laid down ; and that he is to hold his Court for the trial of

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Resolution of the Sudder Foujdaree Adawlut.—The prisoner in this case has been convicted of embezzlement, and sentenced to one year's imprisonment by the First Assistant Magistrate of Sholapore, which sentence the Magistrate has confirmed. In forwarding the papers, the Magistrate stated that the offences of which prisoner was convicted were committed in the villages not subject to the Regulations, and his authority for the trial being called for, the letter of the Secretary to Government, Political Department, No. 1226, to the Collector of Sholapore, dated 18th March 1853, is certified. The 3rd paragraph of this letter instructs the Collector that his Assistants may try cases in lapsed villages, such as do not involve committal to Jail under a warrant. It is not an authority for the disposal of this case, in which the prisoner has been tried by the Magistrate and his Assistant for an offence committed beyond their jurisdiction, and sentenced by a Magisterial warrant to imprisonment in the Sholapore Jail. The prisoner is in illegal confinement, and must be released.

these cases at some place not subject to the Regulations, leaving the trial of all others to the Raja of that Estate.

The Assistants to the Collector may similarly try all such cases in lapsed villages as do not involve committal to Jail under a warrant, as no warrant is legal except from a Court notified by Government to be one under the meaning of Act No. I. of 1849.

It is not intended that the Collector should interfere with the civil jurisdiction of the Raja. As, however, under Article VI. of the Agreement concluded between the Rajahs of Akulcote and Sattara, under date the 11th July 1820, the former is bound to distribute justice impartially, it may sometimes be necessary, even in civil cases, for the Collector in his political capacity to notice any decision the manifest injustice of which may, under that Article, entitle him to do so on petition from the party aggrieved; but it is hoped by Government that the Collector's advice to the Raja will in such cases be sufficient to ensure justice.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges. 1857
 { ROBERT KEAYS, } February 18.

[Case No. 62 of the Calendar of the Ahmednuggur Sessions Court for AHMEDNUGGUR.
 1856. Committed by the Magistrate, C. E. F. TYTLER, on the
 28th August 1856. Tried by the Session Judge, J. W. WOOD-
 COCK, on the 30th August 1856. Proceedings submitted to the
 Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoners.—No. 1, Lubdhēechund Gooroo Goon- Stealing a Child
 chund, Jutee Marwaree, aged from its Parents ;
 30. and Robbery by
 Day, with Force.
 2. Hiree, wife of Rutna, Kolee, aged
 28.

Charge.—Stealing a child from its parents (Regula-
 tion XIV. A. D. 1827, Section XXXIII. Clause 2nd) ;
 in having, exact date unknown, in the month of May
 1856, (corresponding with Wuishak Mass, Shuké 1778),
 at Nowsaree, in the Gaekwar's Territory, stolen a female
 child, Munchee, about eleven years of age, from her pa-
 rents ; also, under Regulation XIV. A. D. 1827, Section
 XXXVI. Clauses 1st and 3rd, with robbery by day, with
 force ; in having, exact date unknown, but in the
 month of June 1856, (corresponding with Jesht Mass,
 Shuké 1778,) at Niwudoogé, Talooka Sheogaum, Zillah
 Ahmednuggur, stolen ornaments from the person of the
 aforesaid Munchee worth Rs. 14.

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—The J. W. Woodcock,
 child Munchee does not appear to have adhered to the Session Judge.
 truth, for she told the Magistrate that prisoners had put
 man's clothes upon her when they were travelling, in
 order that her sex might be concealed ; but she now
 says that this was not the case. It may or it may not
 have been ; but it is certain that the jacket and trousers
 before the Court are too long to fit Munchee ; still the
 prisoners might have put them upon the child when they

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and Robbery by
Day, with Force.

came to a town or village in their journey, to avoid notice. I consider it to have been fully proved that prisoners did steal the child Munchee from its parents, and that their guilt is not lessened by the apparent consent of the child given to Hiree (prisoner No. 2) to accompany them. Lubdheechund (prisoner No. 1) says he can bring witnesses, residents of Nowsaree, to prove that the child was given to him by Gulal, but he does not know if they would give evidence in his favour ; but I agree with the Magistrate that the plea of a free gift is quite set aside by the fact that Gulal went to great expense and trouble in searching for his daughter. I have not therefore called the prisoner's witnesses, for I consider it is altogether absurd to suppose that Gulal would have given his child to Lubdheechund (prisoner No. 1), who is a 'Sadhoo' (saint), and as such is forbidden by the rules of the caste to touch a woman, although Hiree (prisoner No. 2) is his kept woman and the wife of another man who is alive. I have no doubt that it was the intention of prisoners to prostitute the child, and it has only been through the exertions made by her father to recover her that such a distressing result was averted. Viewing the crime of the prisoners with abhorrence, I consider that it calls for a very severe punishment.

The prisoners are found guilty, under the provisions of Regulation XIV. A. D. 1827, Section XXXIII. Clause 2nd, of stealing a child from its parents ; in having, exact day unknown, in the month of May 1856, (corresponding with Wuishak Mass, Shuké 1778,) at Nowsaree, in the Gaekwar's Territory, stolen a female child, Munchee, about eleven years of age, from her parents ; also, under Regulation XIV. A. D. 1827, Section XXXVI. Clauses 1st and 3rd, of robbery by day, without force ; in having, exact date unknown, but in the month of June 1856, (corresponding with Jésh Mass, Shuké 1778,) at Niwudoogé, Talooka Sheogaum, Zillah Ahmednuggur,

stolen ornaments from the person of the aforesaid Munchee worth Rs. 14 ; and the Court passes the following sentence, under the provisions of Regulation XIV. A. D. 1827, Section XXXIII. Clause 2nd, and Section XXXVII. Clause 4th :—

That you, Lubdheechund Gooroo Goonchund, and Hiree, wife of Rutna, be imprisoned and kept to hard labour for the term of five (5) years, and then be released.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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AHMEDNUGGUR.

Stealing a Child
from its Parents ;
and Robbery by
Day, with Force.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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POONA.

[Petition of Dajee bin Bhewsett to the Sudder Foujdaree Adawlut.
Referred to the Magistrate of Poona, D. DAVIDSON, on the 7th
January 1857, for Report.]

Petition of Dajee bin Bhewsett to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate of Poona, requiring him to furnish security, might be annulled.]

Security for Good
Conduct.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Memorandum by the Deputy Magistrate.—The complainant, Bhao bin Dajeesett, Sonar, lodged criminal information at the Police Office on the 25th October 1856, setting forth that certain documents and plain stamped papers, all worth Rs. 101-13-4, had been stolen from a locked-up chest on the third story of his house, and requesting that, as suspicion rested against his neighbour Bhao Goorow, his house be promptly searched. Accordingly his house, and afterwards that of Gunoo Konheriapa, were searched, as requested by the complainant, and the papers alleged to have been stolen were found. After the Foujdar had made the usual preliminary in-

Nana Morojee,
Deputy Magistrate.

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vestigation, the case came up to the Deputy Magistrate, who duly inspected the premises concerned, and examined most of the parties connected with the prosecution.

The witness Nago Narayen states that the terrace of his house is opposite to that of the complainant's house; that from the former place he saw, on the latter terrace, on the evening of the 24th October last, the prisoner Bhao Goorow standing with something under his armpit wrapped up in cloth, and that Sudoobhut bin Luxumonbhut was then near the witness. Sudoobhut corroborates the above statement. Two other men (Narayen Vitul and Babajee bin Bhikshet) also depose to their having seen the prisoner from the public road in front of the house, under the circumstances described by the foregoing two witnesses. The witness Krishnee kom Luxumon deposes to her having seen the prisoner the same evening enter the complainant's house by a door upstairs in the wall separating their houses; whilst the witness Luxumon bin Hunmunta merely states that there is a door in the wall which separates the houses of the complainant and the prisoner. Besides the above witnesses, one Kashinath Abajee deposes that on the evening above referred to he saw the prisoner Bhao, one Anundee Kusbin, and Abajee bin Apajee Goorow in the verandah of the prisoner, and that Apajee had a bundle of some fifty papers in his hands.

Further, on a search being made in the prisoner's house, some of the papers forming the subject of the present inquiries were found in it, between a chest and the adjoining wall, and three in it.

In pursuance of information lodged by the complainant, on the 5th November, that he had learned from one Gunputgeer Gooroo Kailasgeer, Gosavee, that he heard the prisoner Gunoo and one Wamun bin Ramshet read out certain papers at his (Gunputgeer's) house in which the complainant's name was mentioned, and request

made that Gunoo's house be searched, his application was promptly complied with, and the result was that the rest of the papers alleged to have been stolen were found in a cornbin.

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No evidence whatever, further than that above noted down, has been adduced for the prosecution.

Were the foregoing witnesses trustworthy, and had the prisoners failed in disproving their statements, Bhao Sonar's complaint could not be regarded otherwise than genuine. In the first place, then, it is necessary to remark in what relation the witnesses stand to the complainant, the prisoners, and one to another. It will be observed that the complainant is at enmity with the prisoner Bhao Goorow; that the witness Babajee Sonar is the complainant's brother-in-law; that Krishnee is at enmity with the prisoner Bhao, the complainant being the party engaged by her to sue him in the matter of her differences with the prisoner. Luxumon stands in a similar relation as Krishnee to the complainant; Gunputgeer Gosayee is a member of a band of *Tumasgeers* in the complainant's house, whilst Nagò Narayen, Sudoo bin Luxumon Bhut, Narayen Vitul, and Kashinath Abajee appear to be from amongst a class of Brahmins very plentiful in the city of Poona, who profess to be *Bhik-shooks* or mendicants, but who, in fact, earn their livelihood by hiring themselves as witnesses for a trifling consideration. It would be anything but safe to place reliance on the statements of such witnesses.

The complainant asserts that the papers in question had been kept on the upper story of his house in a chest secured with a padlock, so small that the chest could be opened without removing the padlock; that the door of the room in which it lay remained open; and that the prisoner Bhao had free access to a terrace adjoining the room by a door contiguous to and at right angles with the aforesaid door. To say the least of it, it appears most

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unlikely that an intelligent shrewd man like the complainant would thus actually give the prisoner an opportunity for stealing his valuable documents. The fact, however, appears to be, that none has for a long time passed from the prisoner's into the complainant's house by the latter door, as indicated by the circumstance of the interstices of the shutter being filled up by earth and dung, with which they were smeared over some time since.

The witness Krishnee states that she saw the prisoner Bhao go into the complainant's room by the aforesaid door, and return soon afterwards with something wrapped up in his 'dhottee.' Now Krishnee and the prisoner are not on good terms with each other, as is evident from her own deposition. It is, then, hardly possible that he would enter the complainant's house to commit a robbery so as to be seen by her. Krishnee's statement is evidently false.

On being questioned how he ascertained the dates, numbers, amounts, &c., of the different documents, said to have been stolen, *after* the occurrence of the alleged robbery, the complainant answered that he had copies of them as well as a complete inventory, and, to prove his assertion, he produced the whole of his papers before the Deputy Magistrate. Amongst them nothing like a complete inventory was forthcoming, nor copies of all the papers; a fact which proves that complainant was not in a position to give in a detailed memorandum, as he has done at the Police Office, quoting the Nos. of the stamps, dates, amounts, the names of the parties to the transactions, nature of transactions, &c. &c. To meet this difficulty the complainant urges that he quoted the particulars from memory. This is absurd; no person who has to deal with a mass of documents, as the complainant professes to do, being capable of quoting such minutiae from memory. It is true that the com-

plainant did produce copies of some of the documents said to have been stolen, and copies of certain others. These latter copies, however, it must be remarked, appeared to be very old, whilst the former appeared to be quite fresh; thus furnishing strong grounds for suspicion that complainant had made the latter on purpose before having the originals thrown into the houses of the prisoners.

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The annexed diagram represents the premises in question. A is the room in which the chest was kept. B the door by which the prisoner Bhao is said to have gone into and come out of the room, and then retired into his own house by another door contiguous to and at right angles with B. C C the terrace of the complainant's dwelling-place. DD the terrace of the dwelling-place of the witness Nago Narayen. EE a public road in front of the house. Nago Narayen and Sudoo Bhut have deposed to their having seen the prisoner from D issuing out of the door B, whilst Babajee bin Bhikshet and Narayen Vitul have deposed to their having seen him from E. D and E, however, are positions from which it is impossible for a man to see one quitting or entering the door B, as shown by the lines FF and GG. The statements, therefore, of these four witnesses are quite wide of the truth.

The complainant states, in regard to Gunputgeer Gosavee, that he knew him merely by sight, that he asked him to trace the stolen documents, and that he did trace them. It is evidently far from probable that a person would ask a man, whom he knew *merely by sight*, to trace missing documents of considerable value, or that that man would be at the trouble of finding them out. The fact, however, appears to be, that the complainant has on purpose made an untrue statement by asserting that he knew him *merely by sight*, lest by saying that he was an intimate friend of his, both being

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members of a band of *Tumasgeers*, his evidence be viewed with suspicion by the Authorities.

To turn to a consideration of the statements in behalf of the prisoners. Both Bhao and Gunoo deny having committed the offences laid by the complainant to their charge. The witnesses Aba, Gunputrao, and Apa state that the prisoner had been along with them to the village of Baneray on the 23rd October, the day preceding that on which he is alleged to have stolen the papers; and that he did not return to Poona till after 9 o'clock P. M. 24th October, i. e. subsequent to the evening on which he is alleged to have abstracted them. Further, Doorgabae, an immediate neighbour of the prisoner, corroborates the evidence of the foregoing witnesses. All this tends to show that the prisoner Bhao was not at Poona on the occasion on which he is accused of having robbed the complainant.

The chest in and near which some of the complainant's papers were found is kept on one side of a door which opens into an apartment of the prisoner Bhao's dwelling-place, and which has free access to all the neighbours, one of them being Krishnee kom Luxumon. The witnesses Doorgabae and Rukma have deposed that on the evening of the 24th October, whilst they were seated not very far off, Krishnee came in with a roll of papers and threw it near the chest, and got off to speak to Aba, who was then standing out. This last-named witness corroborates the evidence of the foregoing two females. Doorgabae is very far advanced in age, whilst Rukma is a simple villager, so that probably Krishnee did not feel any hesitation in playing her part while they were near the scene, she, moreover, being at enmity with the prisoner and on terms of intimacy with the complainant.

The three papers found in the prisoner's chest are not noted down in the memorandum given in by the com-

plainant of the documents alleged to have been stolen. The prisoner, in his defence, states that he got them from one Babajee bin Bapoojee, who also acknowledges having entrusted them to the prisoner in the matter of a suit which had been filed against him by the present complainant.

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As regards the cornbin in the prisoner Gunoo's granary in which certain papers were found, the witnesses Munajee bin Moteeram, Gunoo bin Nundram, and Moteeram bin Bhowaneedas, who had been engaged in pounding rice in the prisoner's granary, state that they had filled the bin only four hours before the search was made, and that then there were no papers whatever in it.

It appears from the depositions of the foregoing three witnesses, and the prisoner's father (Konheriapa), that not long before the discovery of the papers in the cornbin, on the 5th November, one Mahadoo bin Yeshwuntrao, who owes a grudge to the prisoner, had come and seated himself on it, and that in the course of about an hour and a half after his departure, the complainant came up with the Police Authorities, and, after pretending to have searched the place, pounced upon the cornbin and took the papers out of it. The four witnesses above alluded to appear to be very respectable people, so that the Deputy Magistrate does not feel any hesitation in placing implicit reliance on their word. Gunputgeer Gosavee has stated in his deposition that he accidentally fell in with the complainant on the 5th November, when the latter *for the first time* mentioned to him that he had been robbed of certain documents, whereupon he informed the complainant that he had heard the prisoner Gunoo and one Wamun Wanee read out some papers in which complainant's name was mentioned. This statement disproves the complainant's assertion that he had asked Gunputgeer Gosavee on the

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26th October to trace the missing papers, and leads to a strong suspicion that Mahadoo's visit to the granary, Gunputgeer's pretended communication to the complainant of the clue he is alleged to have found to the missing papers, complainant's application at the Police Office for a search being made of the prisoner's granary, and the discovery of the papers—all these occurrences following each other in a regular train on the same day, *i. e.* the 5th of November, has been the result of a malicious league among the complainants Gunputgeer, Mahadoo, and others.

Gunputgeer Gosaveé deposes that he heard the prisoners Gunoo and Wamun Wanee read out the papers at his house; but Vitoba bin Sakaramshett and Rama bin Krishnaje, who are Wamun's immediate neighbours, and who have known him ever since his infancy, swear that he can neither read nor write. Hence there can be no doubt that Gunputgeer's statement is a falsehood.

After a deliberate consideration of the prominent features of the case, as noted down above, the Deputy Magistrate cannot help coming to a conclusion that Bhao Goorow and Gunoo bin Konheriapa have been maliciously accused by the complainant and his accomplices in order to wreak revenge. The complainant Dajee Sonar has already appeared as a prisoner in several cases of forgery, &c., as shown by the memorandum furnished from the Police Office, but has escaped, from paucity of evidence; nor is this to be wondered at, considering his notorious subtle character. In one of the aforesaid cases he was made to furnish a security for future good conduct, the term of which is nearly over. It is highly necessary, therefore, that a person of the complainant's stamp, who is evidently proved to earn his own livelihood by forgery, perjury, and by trumping up cases against innocent people, should be effectually checked; and under this view he is directed to furnish a bail for further

good behaviour for five years, in a sum of three thousand (3,000) rupees, commutable to imprisonment for one (1) year.

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POONA.

Return by the Magistrate.—The Magistrate begs to forward the papers in this case, as required, and to refer to the Hoozoor Deputy Magistrate's memorandum annexed, dated 18th November last.

Security for Good
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The Magistrate reduced the amount of security for good conduct required by the Deputy from Rs. 3,000 to Rs. 1,000, under the belief that the latter amount would answer the end in view, and because the demand for Rs. 3,000 was beyond the ability of the petitioner to furnish.

The petition accompanied is also returned herewith.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the security bond.

Return by the Magistrate.—The Magistrate has the honour to forward the security bond called for above.

Resolution of the Sudder Foujdaree Adawlut.—The security being to refrain from perjury and forgery, the Court are of opinion that these are not the acts which render a man the object of public distrust, whose good conduct is to be secured by recognisance or security contemplated in the Regulations, and the security bond is annulled.

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BELGAUM.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 4 of the Criminal Return of the Dharwar Sessions Court for December 1856. Committed by the Third Assistant Magistrate of Belgaum, G. W. ELLIOT, on the 25th October 1856. Tried by the Session Judge, A. W. JONES, on the 6th December 1856. Finding certified by the Session Judge, on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Serious Assault.

Prisoner.—Ningungoura bin Chunapagoura, Lingayet, aged 50.

Charge.—Serious assault.

A. W. Jones,
Session Judge.

Finding and Sentence by the Sessions Court.—The prisoner is charged with serious assault, and pleads not guilty.

It is shown that the prisoner attacked the complainant suddenly, on the evening of Tuesday, 14th October, near the village of Yekeree, and inflicted on him a number of wounds with a reaping-hook, from which it is evident he (the complainant) must have suffered severely. The prisoner admits, in the statement he has confirmed before the Court, that he did so ; but he admits also that he had been persuaded to give up his wife a year ago ; and that, because his family taunted him with it, he took his 'dhuratre' and went and laid wait for the prosecutor, and attacked him when he was quietly returning from his field with his (the prisoner's) wife.

He has not the excuse, therefore, of having suddenly become acquainted with his dishonour, nor of having actually witnessed any act of adultery, though, from the Assistant Magistrate's proceedings, this would appear to be the case ; but the Session Judge believes this is only a mistranslation, for the rest of his statement does not bear this out.

The prosecutor's wounds do not seem quite so severe as the Assistant Magistrate supposes, nor does the Session Judge see any reason to believe the prisoner intended to

kill the prosecutor, for, when he had him entirely in his power on the ground, he does not appear to have done anything to him.

The prisoner is therefore convicted of serious assault ; in having, on or about Tuesday, the 14th October 1856, (corresponding with Ashwin Wud' 1st, Shuké 1778,) at about 7 P. M., in the limits of the village of Yekereé, in the Pursghur Talooka, in the Belgaum Division of the Dharwar Zillah, severely wounded Prubhatkur Bhut bin Jeewun Dixit, of Munolee, with a reaping-hook, on both hands and other parts of the body, thereby permanently causing injury to the action of the said limbs.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXIX. Clause 1st, the following sentence is passed :—

That you, Ningungowra, be imprisoned and kept to hard labour for two (2) years, and be kept in solitary imprisonment for two (2) months, one (1) month's solitary imprisonment to follow one (1) year's hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition of Govind Ram to the Sudder Foujdaree Adawlut. Referred for Report to the Magistrate of Poona, D. DAVIDSON, on the 7th January 1857.]

Petition of Govind Ram to the Sudder Foujdaree Adawlut.—[Praying for an order to the Magistrate of Poona to proceed criminally against a person named Ramajee, for robbery.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

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BELGAUM.

Serious Assault.

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POONA.

Robbery.

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POONA.

Robbery.

Return by the Magistrate.—Petitioner complains that he has been referred for remedy to the Civil Courts; instead of having justice done to him by the Magisterial Department, under the following circumstances :—

He states that, in October 1855, he farmed a grass 'koorun' in the village of Mahaloongey from the Inamdar, and that Ramajeerão bin Gunputrao Khanwelkur had caused to be carried off or stolen a quantity of his grass.

In his first petition to the Mamlutdar of Khair he merely stated that Khanwelkur was preventing him from taking the grass, and requested that this prevention should cease.

It appeared on inquiry that, by a prior agreement and settlement between the Inamdar and Khanwelkur, the latter was entitled to and in the habit of getting 2,000 bundles of grass from the koorun; therefore his petition was rejected by the Mamlutdar, and subsequently also, on appeal by the First Assistant Collector and Magistrate, who instructed him to proceed for remedy, if he liked, against the party who had granted him a farm not in his power to grant.

A reference to paragraphs 7 and 9 of the Collector's letter to the Registrar No. 1471, of 7th August last, will show the Court that the Inamdar had no power to grant the koorun in farm, as, by precept of Civil Court, his interest in or concern with the village revenues was at an end, till he should be reinstated in the same, in the same manner in which he had been deprived.

The petition is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS, }

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AHMEDABAD.

[Petition of Mugunlal Futechund to the Sudder Foujdaree Adawlut.
Referred to the Magistrate of Ahmedabad, J. W. HADOW, on the
7th January 1857, for Report.]

Petition of Mugunlal Futechund to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate, making over a portion of his house to his wife, and requiring him to furnish recognisance to keep the peace, might be annulled.]

Terms of an
Agreement en-
forced.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for report.]

Return by the Magistrate.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to report that petitioner and his first married wife, named Pursun, had quarrelled, and, continuing on bad terms with each other, petitioner married a second wife, with whom he lived, assigning to his first wife a portion of his house, and giving her an agreement in writing promising to provide her with food and clothing.

For five years Pursun continued to occupy that portion of the house which had been assigned to her, but petitioner, at the instigation of his own relations and those of his second wife, took the opportunity, when she was absent (she having gone to her father's house), to place a fastening on the door, and stationed two men on guard to prevent her gaining admittance.

On her return, finding that she could not enter, she complained to the Hoozoor Deputy Magistrate, who inquired into the matter, and, being of opinion that it was not a case which called for interference on his part, referred complainant to the Civil Court for redress, binding her and her husband over to keep the peace in recognisance of Rs. 200 each.

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AHMEDABAD.

Terms of an
Agreement en-
forced.

Dissatisfied with this decision, she appealed to the Magistrate, who called for the proceedings of the Hoozoor Deputy Magistrate. On a review of the case the Magistrate did not understand at the time that she had been forcibly dispossessed by her husband of the portion of the house referred to, and informed her that he saw no reason to interfere.

She, however, some time afterwards, again complained to the Magistrate, who made further inquiry as regards the agreement which petitioner had given her, and whether she had actually been in possession of the portion of the house referred to. The written agreement was then produced, and petitioner admitting that he had given it, and that, up to the time he placed a fastening on the door during her absence, she had occupied the rooms, the Magistrate was induced to reconsider his former decision; and, being of opinion that Pursun had been illegally dispossessed, directed the petitioner to remove the lock and allow Pursun to take possession again of the portion of the house he admitted having assigned to her, and required him to furnish recognisance to keep the peace towards her.

The original petition is herewith returned, as requested.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—I would reverse the Magistrate's order in this case, and leave the wife to her remedy by Civil action.

R. Keays, Acting
Puisne Judge.

Minute by Mr. Keays.—I am of opinion that, as it is stated by the Magistrate in his return that the petitioner acknowledged having given the woman the agreement, and, in accordance with that agreement, a portion of his house to reside in, he had no right to take advantage of her temporary absence to take forcible possession of her room; and I would uphold the Magistrate's order, leaving petitioner to seek redress by a Civil action.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

Minute by Mr. Frere.—I agree with Mr. Keays.

W. E. Frere,
Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

Present, { WILLIAM HENRY HARRISON, }
 { ROBERT KEAYS, } Puisne Judges.

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DHARWAR.

[Case No. 3 of the Criminal Return of the Dharwar Sessions Court for November 1856. Committed by the First Assistant Magistrate of Dharwar, S. ST. J. GORDON, on the 29th October 1856. Tried by the Session Judge, A. W. JONES, on the 8th November 1856. Finding certified by the Session Judge to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Imamboo kom Fakeer Saheb, Mussulman, Attempt to Com-
aged 60. mit Abortion.

Charge.—Attempt to commit abortion. Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with attempt to commit abortion, and pleads not guilty.

The Session Judge, however, thinks the charge would have been better worded as aiding in an attempt to commit abortion. But, however that may be, it is shown that a woman named Purowa had become pregnant after the death of her husband by an intrigue with a man named Hunma, and that her brother-in-law, meeting him one afternoon on the way to a village where he knew a woman practising in procuring abortion lived, at once suspected he was going to engage her services; and in that evening, therefore, he went with the Police Patel and other persons to the house where his sister-in-law was living; and it is proved before the Court that the prisoner was found concealed there, and that the prisoner took out, before two female witnesses, a small piece of stick, five or six inches long, from the private parts of Purowa, who was from four to seven months in the family way.

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Attempt to Com-
mit Abortion.

The prisoner's statement is also proved before the Court, in which she admits she was summoned by Hunma to procure abortion for Purowa, and that for that purpose she inserted this piece of stick with some medicated cotton tied to its top into her person; and the statement of the deceased Purowa is also recorded in this case, from which it is proved that this twig or piece of bamboo was inserted in her person as stated in the charge.

The prisoner, in her defence in this case, admits that she was called to Purowa's house by Kuree Hunma, and was found there as described by the witnesses; but she says this Hunma told her Purowa was his wife, and that she was suffering much from the child of which she was pregnant, and wanted assistance to deliver her, but that Purowa denied both that she was Hunma's wife and that she was pregnant, and so gave her a place to sleep in for the night; but the corroboration which her confessions in the original case receives from the evidence of the witnesses proves that she is guilty of the attempt to commit abortion for Purowa, and she is therefore convicted as charged; in that, in the village of See-gaum, Talooka Bunkapoor, in the Dharwar Division and Zillah, in the house of Purowa, on Monday night, 30th June 1856, (corresponding with Jésh't Wud 13th, Shuké 1778,) at about 10 o'clock, she, the prisoner, did insert a piece of stick into the private parts of one Purowa Koosapoor, then about seven months in the family way, and by this and other means did attempt to procure abortion for the said Purowa.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVIII., and Section I. Clause 2nd, the following sentence is passed:—

That you, Imamboo kom Fakeer Saheb, be imprisoned and kept to hard labour for six (6) months, and pay a

fine of fifty (50) rupees, or be further imprisoned another six (6) months, also with labour.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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DHARWAR.

Attempt to Com-
mit Abortion.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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POONA.

[Petition of Balcrushn Mahadeo to the Sudder Foujdaree Adawlut.
Referred to the Acting Session Judge of Poona, C. M. HARRISON,
on the 12th November 1856, for Report.]

Petition of Balcrushn Mahadeo to the Sudder Foujdaree Adawlut.—[Praying that the Session Judge may be directed to make inquiry into the matter stated in the petition against the Moonsiff Abajee Baboorow.]

Perjury

Precept issued by the Sudder Foujdaree Adawlut to the Acting Session Judge.—[Calling for a report.]

Return by the Acting Session Judge.—In compliance with the within Precept, the Acting Session Judge has now the honour to report upon the petition of Balcrushn Mahadeo, premising that the time allowed (ten days) has been exceeded in consequence of having had to send to the Moonsiff of Wurgaum for a copy of his report on the petition made in this Court by the petitioner under date the 12th April last.

In this he complained of having been dismissed without cause by the Acting Session Judge's predecessor, Mr. Keays, in consequence of representation made by the Moonsiffs of Tulegaum and Wurgaum, and accused the latter of having altered a Minute in a case tried by him, and, indefinitely, of other acts of irregularity, before specifying which he required that the Moonsiff should be suspended.

To the truth of this assertion he was solemnly affirmed; and, upon inquiry into the only specific allegation the

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petition contained, it appearing to be altogether without foundation and groundless, he was made over to the Magistrate, and, having eventually been committed for trial, was tried, convicted of perjury, and sentenced to be imprisoned with hard labour for one year, subject to the confirmation of the Judges.

The conviction and sentence were subsequently annulled, because (the Acting Session Judge is informed by an extract from the Court's proceedings of 24th September 1856) the Judges found it to be "admitted by the Moonsiff that he did change some part of his Minute." The Acting Session Judge must here, however, with due deference, represent, that if, as he apprehends, a Judge's Minute consists of the decision and reasons of it immediately following the points to be decided, the Moonsiff does not admit having changed any part of his Minute, and as no proof whatever was brought forward by the prisoner to prove that he did, whatever legal doubt may exist in the minds of the Judges regarding his having perjured himself, no moral doubt as to the fact can, the Acting Session Judge submits, be entertained.

Being then satisfied that the petitioner had perjured himself with reference to the principal, and indeed only specific accusation, in the petition he presented to the Acting Judge, he did not consider himself justified in suspending the Moonsiff in order to give him an opportunity of stating what other charges he had to prefer against him, especially as his dismissal at the representation of the Moonsiff left no doubt on the Acting Judge's mind that he was, actuated by revenge and enmity in accusing him.

The petitioner admits that he was aware of all he now brings forward when in service under the Moonsiff, and states that he was prevented from representing it by the Moonsiff refusing him leave. How much truth there is in this assertion the Judges will perceive, when the

Acting Session Judge informs them that he had leave from the 8th of January to the 16th February, from the 24th November to the 25th December, and from the 27th December 1855 to the 10th February 1856.

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In the 3rd and following paragraphs of his petition to the Court, Balcrustn Mahadew brings forward fresh accusations against the Moonsiff, and it rests with the Judges to decide whether these should, under the above circumstances, be now inquired into. They will doubtless consider whether, unless strong *prima facie* reasons exist for believing the accusation to be true, it is expedient or politic to listen to charges preferred against the head of an office by a subordinate who has been dismissed at his representation for gross misconduct.

The Acting Session Judge begs to draw attention to the fact, that at the close of the 3rd paragraph of his petition above alluded to, he admits his inability to produce evidence in support of the accusation therein contained, and to point out that the draft of a report upon a 'durkhast' in the Moonisiff's handwriting, referred to at the close of the 4th paragraph, shows apparently nothing more than that the Moonsiff has been in the habit of instructing his establishment in their duty.

The Acting Session Judge will send for the case of perjury alluded to in the 5th paragraph, and, if necessary, call upon the Moonsiff for his explanation.

The Acting Session Judge does not imagine that the Judges expect him to notice the insolent remarks of the petitioner in regard to himself.

The petition is herewith returned.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Session Judge.—There is matter in the petition which the Judge might inquire into without suspending the Moonsiff. If he would pay Wurgauum a visit for a few days, he might ascertain whether the Karkoon, who does the Nazir's work, is the Moonsiff's

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brother-in-law; whether the durkhasts have been unnecessarily delayed; the truth or otherwise of the story about the perjury; and, if there is any truth in these, he would, most probably, hear more that it would be advisable he should inquire into; and the Court would recommend Mr. Harrison to go to Wurgaum as early as convenient.

Return by the Acting Session Judge.—Having, in compliance with the instructions contained in the extract from the Court's proceedings of the 10th December last, received with Precept No. 1144 of that date, proceeded to Wurgaum, and there investigated the several points noticed, the Acting Session Judge has now the honour to report the result.

It appears that Venaek Dew Row, who was Nazir of the Wurgaum Court from 27th June 1853 to 28th October 1854, is the Moonsiff's brother-in-law, but this was duly reported by the Moonsiff on recommending him for the office, and his appointment was sanctioned under date 31st August 1853. It appears also that, having been guilty of neglect of duty in carrying out process of the Court, the Moonsiff reprimanded him in the orders passed on several durkhasts; and finally, on the 28th of October 1854, having made a report on the subject, forwarded his 'razeenama' and recommended another man for the appointment.

The accusation made by the petitioner against the Moonsiff is not of having "unnecessarily delayed" durkhasts, but of having, on his return to Wurgaum from Poona (where he had been for nearly seven months on duty), in August 1854, passed orders on durkhasts and caused them to be *antedated*, and he states that this will appear from the orders in question being in the handwriting of a Karkoon, Bulvuntrow Sudasew, who was at Wurgaum during the whole of the time that the Moonsiff was at Poona.

The Moonsiff explains that whilst he was at Poona conducting the duty of the Sudder Ameen's Court, he, by order of the Judge, continued to carry on the miscellaneous work of his own Court also ; that accordingly, reports on durkhasts were forwarded to him by the Nazir from Wurgaum to Poona by a Karkoon, and, orders having been passed thereon, were written by the said Karkoon or others, and, after being signed by him, returned ; that when durkhasts were sent by the Nazir, he, in ordinary cases, wrote directions for the usual order to be written on the cover, and in intricate cases wrote drafts of orders enclosing one in each durkhast, and these, when copied by Bulvuntrow Sudasew, were returned for signature. He points out that in some cases, the Nazir having reported long after the expiration of the time allowed, he has in the orders issued thereon censured him for the delay, which is inconsistent with the charge of having antedated his orders. He shows that on two durkhasts the words "Camp, Poona," are in the handwriting of the petitioner, clearly indicating that they were written at Poona, and not at Wurgaum, as he now falsely asserts ; that another durkhast bears a final endorsement in the handwriting of Luxumon Annundrow Karkoon, of 4th May 1854 (when he was at Poona), mentioning that a notice had been issued ; and the batta on account of this notice is found entered on the same date by the same Karkoon in the batta day-book, showing clearly that the order was passed at Pooza, and not at Wurgaum ; that many durkhasts are endorsed as having been despatched on the 28th July by Luxumon Visajee Karkoon, and, on these orders having been passed on the 31st idem, execution thereof is recorded in the handwriting of other Karkoons, from the 3rd August 1854 ; that the monthly return of durkhasts forwarded to the Judge contains the cause of delay in the disposal of each one. And with reference to the returns sent in before he came back to Wurgaum, how,

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he asks, could it be possible for him to enter therein antedated orders subsequently passed? that memorandums of papers forwarded to him at Poona by the Nazir from Wurgaum have been discovered among the waste paper, and these and the post receipt-book corroborate what he has stated; that the greater number of final orders on durkhasts are in the handwriting of the petitioner himself; that some of the orders in the handwriting of Bulvuntrow Sudasew were written by him at Poona and others at Wurgaum; that, on the occasion of his Court being visited by the then Judge, Mr. LeGeyt, during his absence at Poona, he returned to Wurgaum temporarily, and then and during the vacation took the opportunity to dispose of many durkhasts; and a number of orders and final endorsements thereon were on these occasions written by Bulvuntrow; and, finally, he represents that the said Bulvuntrow, having been frequently fined by him for neglect of duty, was eventually dismissed at his representation, and has now conspired with the petitioner in trumping up this false charge.

The petitioner selected forty-eight durkhasts, on which, with a few exceptions, orders are endorsed in the handwriting of the Karkoon Bulvuntrow Sudasew during the period the Moonsiff was employed in the Sudder Ameen's Court at Poona; but the Acting Session Judge considers his explanation of how this occurred to be quite satisfactory, and is of opinion that there is no reason whatever for believing that the Moonsiff antedated these orders, or that the accusation made by the petitioner is otherwise than a malignant falsehood.

The perjury case was first taken up by the Moonsiff on the 30th December 1853, but was not finally disposed of until the 26th November 1855. Of this period, however, the Moonsiff was absent for nearly seven months, from 17th January to 31st July 1854, on duty at Poona. The prisoner's attendance was not secured until the 27th

September 1854 (he was admitted to bail on the 29th idem), and it was not until the 11th June 1855 that the attendance of one of the witnesses was procured. For the above delay the Moonsiff is not, the Acting Session Judge submits, responsible; but that which followed, of five months and fifteen days, having been caused by his calling for the return of a summons not sent back by the Police, and which could not be found, was unnecessary. The prisoner was eventually discharged for want of proof; and the Acting Session Judge is of opinion that there is nothing in the circumstances of the case tending to throw suspicion on the Moonsiff of having acted otherwise than with perfect good faith.

The delay in the execution of this Precept has been occasioned by its, in the first place, having reached the Acting Session Judge when on his way from visiting the Baramutee Court; secondly, by the papers connected with the inquiry having to be translated; and thirdly, by the intervention of the divisional departmental examination, and a press of other business.

Resolution of the Sudder Foujdaree Adawlut.—The Court consider that the Acting Judge's report is satisfactory, and see no cause for issuing further orders on the subject.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notices issued by the Magistrate of Tanna, E. C. JONES, on the 10th February 1857, and referred by him to the Sudder Foujdaree Adawlut.]

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of a public tank at Moujé Jocee, Turuf Wajé, Talooka Panwell, Zillah Tanna: all persons are hereby prohibited from

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bathing, and washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of a tank at Moujé Bangunga, in the Mahim Talooka of the Tanna Zillah: all persons are hereby prohibited from bathing, and washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to enclose, for submission to the Court, copies and translations of two notices issued by me in the villages of Jooea and Bangunga, in the Tanna Zillah, under Section XIX. of Regulation XII. of 1827.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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COLABA.

Notices issued
by a Joint Magistrate.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notices issued by the Joint Magistrate of Colaba, L. REID, on the 11th February 1857, and referred by him to the Sudder Foujdaree Adawlut.]

Notice, under Section XIX. Regulation XII. A. D. 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank called Ganee, at Moujé Rohé, Purgunna Ghosali, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice, under Section XIX. Regulation XII. A. D. 1827, is hereby given, that whereas it has been found

necessary to preserve for drinking the water of the tank called Dhungur, at Moujé Rohé, Purgunna Ghosali, Talooka Rajpooree, in the Joint Magistracy of Colaba : all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

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COLABA.

Notices issued
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Notice, under Section XIX. Regulation XII. A. D. 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank called Wokareshwur Mahadeo, at Moujé Rohé, Purgunna Ghosali, Talooka Rajpooree, in the Joint Magistracy of Colaba : all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In compliance with the provisions of Clause 6th, Section XIX. Regulation XII. of 1827, I have the honour to forward to the Court of Sudder Foujdaree Adawlut three copies and translations of Injunctions issued by me this day.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Petition of Bejising Sooltansing to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmedabad, J. W. HADOW, on the 4th June 1856.]

AHMEDABAD.

[See pages 58 to 63, Vol. VII. of 1857, for previous Denial of Justice. proceedings in this case.]

Letter from the Magistrate of Ahmedabad to the Registrar of the Sudder Foujdaree Adawlut.—With reference to the 2nd paragraph of the extract from the

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proceedings of the Sudder Foujdaree Adawlut, dated 14th instant, received with your letter No. 42 of the same date, I have the honour respectfully to state, for the information of the Judges, that, since I have been in charge of this Zillah, I have endeavoured to act up to the instructions conveyed in the Court's Circular No. 244, dated 13th August 1841, directing a rigid examination of the prosecutor prior to the accused person being called upon to answer to the charge; such course being likely to prove "a very powerful safeguard against groundless charges being preferred, and when actually preferred would operate as a bar to the necessity of apprehending or calling on the accused person to answer the charge."

The instructions conveyed in the 2nd paragraph of the extract from the Court's proceedings above referred to appearing to be somewhat opposed to those contained in the Circular above quoted, I have the honour to solicit the further orders of the Judges on the point in question.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that the special object of the Court's Circular quoted by him was to guard against the arrest of accused persons on insufficient grounds; and the special object of the instructions sent to him on the 14th January 1857 was to guard against the dismissal of complaints on insufficient grounds. Both are essential objects, and not to be lost sight of in Police and Magisterial investigations; and the Court have no doubt, if the Magistrate applies the instructions he has now received, and those he quotes from the Court's Circular Order, with due discretion, that he will not find them clash, or that it will be necessary either to harass the innocent by arrest on unfounded charges, or to stifle inquiry because a party, a stranger, has not proof at hand of his ownership of property alleged to have been stolen from him.

CASES.

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN MARCH 1857.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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[Cases Nos. 27, 28, and 30 of the Criminal Return of the Magistrate of Tanna for December 1856. Tried by the Acting Hoozoor Deputy Magistrate, DADOBA PANDOURUNG, on the 15th, 16th, 17th, 18th, and 20th December 1856. Confirmed by the Magistrate, E. C. JONES, on the 26th December 1856 and 5th January 1857. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Khotoo wulud Alikhan.]

Prisoner in Cases Nos. 27 and 28.—Bhagojee bin Vitojee, Mahratta, aged 35. Offering a Bribe.

In Case No. 30.—Khotoo wulud Alikhan, Mussulman, aged 36.

Charge in Case No. 27.—Having offered a bribe to a Jemedar of the Customs Department (Act I. Section VIII. of 1852); in having, on or about 4th December 1856, (corresponding with Margsheersh Shood 7th, Shuké 1778,) at Pádá Karanja, Péta Karanja, Talooka Salsette, Zillah Tanna, at 9 p. m., while on board a boat which was in the anchorage ground off Karanja Bunder, knowingly and wilfully offered a bribe of Rs. 22 to Dhondoo Ramjee, a Jemedar of the Customs Department, with the intent of inducing thereby the said Je-

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Jemedar to allow him to pour in water amongst a cargo of salt on board a vessel anchored then and there, in order that any excess of salt over and above that covered by the 'purwanah' on board the same vessel might not be detected, and thereby causing the said Jemedar to act in a manner inconsistent with his duty, he being at the time in charge of the vessel and cargo of salt on board of her.

The prisoner pleads not guilty.

Charge in Case No. 28.—Having offered a bribe to a Tindal of a Government boat (Act I. of 1852, Section VII.) ; in having, on or about 4th December 1856, (corresponding with Margsheersh Shood 7th, Shuké 1778,) at the Karanja Bunder, Péta Karanja, Talooka Salsette, Zillah Tanna, while on board a boat in charge of the Preventive Inspector of the Coast Guard Establishment, offered a bribe of Rs. 6 to one Abdool Rahman wulud Baloo, Tindal of the same boat, for the purpose of taking him (prisoner) on board another vessel, which was there detained by order of the Inspector, under suspicion that it contained an excess of cargo over and above that covered by the purwanah, thereby inducing or persuading the said Tindal to do that which was inconsistent with his duty.

The prisoner pleads not guilty.

Charge in Case No. 30.—Having offered a bribe to the Preventive Inspector of the Coast Guard Establishment, Southern Division, through his Tindal (Act I. Section VIII. of 1852) ; in having, on or about 5th December 1856, (corresponding with Margsheersh Shood 8th, Shuké 1778,) in the Karanja Bunder, Péta Karanja, Talooka Salsette, Zillah Tanna, while the two 'parows' named 'Shumsheri' and 'Guneshpursaud' were detained in the bunder of Karanja by order of Mr. MacDonald, the Preventive Inspector of the Coast Guard Establishment, Southern Division, under suspicion that they contained

an excess over and above that covered by the purwanah, offered a bribe of Rs. 100 in a note to the said Inspector, through the medium of one Abdool Rahman, the Tindal of a Government boat in the charge of the said Inspector, in order thereby to induce, or otherwise persuade the said Inspector to countermand his order for the detention of the said two vessels, with their cargo of salt, which belonged to Deokurn Kowra, of whom he (prisoner) was an agent, and thereby thus to cause the said Inspector to act in a manner inconsistent with his duty as an Officer of the Customs Department.

The prisoner pleads not guilty.

Finding and Sentence by the Acting Hoozoor Deputy Magistrate in Case No. 27.—From the above investigation into this case, and from a careful perusal of the annexed proceedings, held before Mr. Robertson, the Deputy Commissioner of Customs, Southern Division, it does not appear quite so clear to the Acting Deputy Magistrate that the charge preferred against prisoner can be brought home to his conviction. In the first place, the evidence on the main point, which forms the gist of this case, viz. the point which touches the scene where, and the circumstances under which the bribe is said to have been offered, and actually paid by prisoner to the Jemedar Dhondoo Ramjee, appears to be very conflicting in its detail throughout. In his evidence before Mr. Robertson, Dhondoo Ramjee (witness No. 1) stated that the night on which prisoner's vessel, called 'Shumsheri,' was detained and put under guard, comprising himself, another Jemedar, and some Khalasees, by order of the Inspector, Mr. MacDonald, he went ashore to take his meal at about 9 o'clock. On his return on board the same vessel, prisoner, who had been sent ashore with the crew of his vessel some time before, came to him in his own boat, and there, on board the vessel on which he and others were keeping watch, after having had some con-

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versation with him, in the presence or within the hearing of Babajee Jemedar, and one Khalasee, offered him first a bribe of Rs. 25, and then and there paid him Rs. 22, in order to persuade him to give him permission to let in water for the purpose of destroying the excess of the salt. Babajee Jemedar (witness No. 2) stated before Mr. Robertson that this offer was made to *him* by prisoner while he was standing in the fore part of the vessel, and asked his permission to let in the water amongst his cargo of salt, and that the money, first Rs. 20, and then two more, were put on *his* 'gongree,' which he then handed over to Dhondoo Jemedar (witness No. 1). Before the Deputy Magistrate, this witness retracted this statement, and said that the offer was made to witness No. 1, and the money was also paid to him. The Khalasee, Changoo (witness No. 3), in whose presence witness No. 1 states this offer of bribe was made and the Rs. 22 paid, states that prisoner came on board this vessel at 9 o'clock, the time witness No. 1 stated that he went ashore to take his meal, and there had some conversation with both the Jemedars in the fore part of the vessel, he did not know what about; but he was not aware that any offer of bribe was then made by prisoner, or that any sum was paid to the Jemedar. He moreover states, that nobody told him about this bribe of Rs. 22 the whole of that night. If the offer of the bribe was really made, and the sum of Rs. 22 was actually paid, as witnesses Nos. 1 and 2 declare, this witness, in whose presence witness No. 1 stated the money to have been paid, and who was then the only Khalasee waking, if the others were supposed to have gone to sleep, ought to have known all about this alleged offer of bribe, and particularly when it would be considered that this affair must have created some stir on board the vessel; for it appears from the evidence of witnesses Nos. 1, 2, and 4, that prisoner, after this offer of Rs. 22, was immediately removed from

off this vessel and placed on board the Inspector's boat, under all the appearance of a custody. Mr. MacDonald (witness No. 5) stated before Mr. Robertson, on oath, that Dhondoo Jemedar (witness No. 1) went to him that night, at about 9 o'clock, and informed him that prisoner wished him (Dhondoo) to accept Rs. 25, and to allow him to destroy some 40 maunds of salt which was in excess on board the vessel, and that some time after, the said Jemedar went again to him (Mr. MacDonald) with the bribe which had been offered. Now the inconsistency of Dhondoo Jemedar's statement is quite apparent. It would appear from his own statement before Mr. Robertson, that it was at about 9 o'clock that he went ashore to take his meal, and that it was not till some time after his return to his duty on board the vessel that prisoner came off in his boat to him, as is borne out by the evidence of witness No. 6, who stated before Mr. Robertson that it was at about 10 o'clock or so P. M. that prisoner asked him on the shore to show him where Dhondoo Jemedar was; so that if prisoner rowed in his boat at all towards the vessel, and had a conversation that night about this offer of bribe with the Jemedar on board of her, it could not have been before 10; and, therefore, if Mr. MacDonald was right as to the preciseness of the time (which there was good reason to believe he was) he had the first information from the mouth of the Jemedar (Dhondoo) about the offer of a bribe of Rs. 25, all the story of both the Jemedars (witnesses Nos. 1 and 2) about this offer, and gift of Rs. 22, on board the detained vessel, falls to the ground. It will, perhaps, be thought that in weighing such minor circumstances in this case, the Acting Deputy Magistrate has laid more stress than can be warranted on the correspondency of the times at which the facts detailed are stated to have occurred; but it must be borne in mind that when such facts are to constitute the very circumstance under which

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a crime is alleged by one party to have been committed by another pleading not guilty, it is essentially necessary, in adjudication in the absence of direct proofs, that those facts should be scanned as much as possible in all their bearings. Besides the inconsistencies above pointed out, there are two other points which still confirm the incredibility of the story of the two Jemedars regarding the offer and gift of this bribe of Rs. 22. It would appear from the evidence of Mr. MacDonald, that of Dhondoo Jemedar himself, and of witness No. 4, given before Mr. Robertson and confirmed before the Acting Deputy Magistrate, that Dhondoo must have left the vessel, on board which he was ordered that night to keep watch, in order to give information to Mr. MacDonald of the first offer of Rs. 25 ; but this point does not appear to be clearly borne out by the other evidence adduced in this case,—even by the evidence of the other Jemedar, Babajee (witness No. 2), from which it would appear clear that this first offer of Rs. 25, and the actual gift of Rs. 22, occurred at one sitting on board the vessel after the arrival of prisoner there at about 10 o'clock. Dhondoo does not appear to have left the prisoner while he was there on board the vessel. The natural conclusion from these two different stories on this single point is, that the offer of Rs. 25 must have been made, if made at all, at a different place, and at a different time from those at which the offer and gift of Rs. 22 occurred, a fact which is not borne out by a single witness in this case. Consequently the story of the two Jemedars, regarding the offer and gift of the bribe, appears to be without foundation. Neither would the story of prisoner having rowed in his own boat to get access to Dhondoo Jemedar on board the vessel on that night, after he and his crew had been sent ashore, appear to be so clear as Mr. Robertson seems to believe from the evidence adduced on that point. In the first place, witness No. 6, a

Sepoy of the Customs Department, had no right to accompany prisoner in his boat to show the Jemedar at that late hour. This Sepoy and four men of the crew, whose evidence has been recorded on this point, differ among themselves. Some state that it was prisoner's boat, while others state that it was a Government boat. Witness No. 11 states that prisoner rowed alone; witness No. 10 states that a Jemedar was in company with prisoner; while witnesses Nos. 8 and 9 state that it was a Government boat, and that there were Government men with him. This discrepancy did not attract the notice of Mr. Robertson, but, in the opinion of the Acting Deputy Magistrate, it furnishes a good ground to mistrust the whole story of prisoner having rowed in his own boat that night after he had been sent ashore to the vessel then under guard, and there on board of her made an offer of a bribe and paid the Rs. 22. Nor is it quite apparent that prisoner had any great motive in doing so. Being merely a Tindal of the vessel, and not the owner of the cargo, it cannot be easily supposed that he had any great concern in the matter; and the out-turn measurement having not then been made, he could not have been sure what exact quantity of salt was to be destroyed; and therefore it is hardly probable that he should have sought for the permission of the Jemedar, through the means of a bribe, to allow him to let in water in order to destroy the excess. On the contrary, taking all the inconsistencies above enumerated into consideration, it is more probable that the two Jemedars, under the influence of a hope of obtaining reward from the proceeds of the cargo in the event of its being confiscated, should have fabricated such story against the prisoner, than that the latter should have had any great motive for making this offer of a bribe.

Under the above circumstances of the case, the Acting Deputy Magistrate cannot feel himself warranted to con-

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vict prisoner of the guilt laid against him. He is therefore discharged from the same, for want of sufficient proof.

The Rs. 22 produced in evidence are ordered to be credited to Government.

Confirmation by the Magistrate.—The Magistrate sent for these proceedings at the request of the Deputy Commissioner of Customs, Mr. Robertson, and on their perusal records the following remarks.

It is to be regretted that two men holding such responsible situations as the Jemedars could not manage to tell their story in an intelligible manner, and that, though apparently describing what actually occurred, they should render the whole of their evidence unworthy of belief by their stupidity in narrating it. Notwithstanding their prevarications, the Magistrate believes that the bribe was offered, and accepted, according to orders received from the Preventive Inspector. The position of the parties was, in the Magistrate's opinion, exactly the reverse of that from which the Deputy Magistrate came to the conclusion that the defence was more probable than the prosecution. The man whose boat had been detained knew very well that he had everything to gain by avoiding the search, or rendering it fruitless; it was not merely the loss of the excess of salt that he had to fear, but the confiscation of the boat itself, under Section IV. Act XXX. of 1850. The Customs Officers had nothing to gain: they had secured their prize; and it seems absurd to suppose that these men, who are not too highly paid, should go to the expense of Rs. 22 in order to bring a false accusation against a man whom they had already in their power; whereas it was most natural that the prisoners, who had twenty times that amount of property at stake, should be willing to pay freely in hopes of escaping detection.

The Magistrate cannot now alter the decision, because

the Deputy Magistrate has virtually acquitted the prisoner, although he has erroneously used the word "discharged."

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The Deputy Magistrate should never, on any account whatever, adjourn a case after the conclusion of the proceedings on defence.

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Finding and Sentence by the Acting Hoozoor Deputy Magistrate in Case No. 28.—In this case there is not a particle of evidence to show that the Rs. 6 which the Tindal, Abdool Rahman (witness No. 1), made over to Mr. MacDonald, and which he afterwards alleged to have received from prisoner as a bribe given to him by prisoner for the purpose mentioned by him, were actually offered and paid to him by prisoner as a bribe. It would appear, from the trial of a similar charge preferred against him in a case which preceded this, that prisoner had already been for some time under guard on board this boat, on suspicion of his having just a few hours ago committed a similar offence; under this circumstance it can hardly be supposed that he could be so stupid as to put himself to similar fresh hazard. This Tindal (witness No. 1), who alleges to have received these Rs. 6 as a bribe given to him by prisoner early in the morning of the 5th instant at 4 o'clock, stated on oath before Mr. Robertson that prisoner *came* to him on board his boat, and there made this offer of a bribe, in order that he should take him in a small boat to the vessel which had then just arrived with a cargo of salt—a statement which appears *prima facie* to be quite unreasonable and absurd; for why could the prisoner not go himself to the vessel he wanted to go to, instead of coming to the Tindal and offering such a high reward to him for such a purpose? This witness, in his evidence before the Police Amuldar and in this Kutcheree, changed this story, and stated that prisoner was then under his guard on board the boat, and there made this offer of a bribe,

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first of Rs. 2, then of Rs. 4, and at last of Rs. 6; and for the verification of this statement produced the evidence of his own Khalasee, Lakhma (witness No. 2), who states that prisoner came there in his own small boat and offered at once Rs. 6 to Abdool Rahman, for what purpose he does not know. Mr. MacDonald (witness No. 3) deposes that on the morning of the 5th, at about 8 o'clock, Abdool Rahman brought to him these Rs. 6, and said that they were given to him as a bribe, but he did not then tell him by whom; this he told some hours afterwards. From such apparently doubtful conduct on the part of the Tindal, Abdool Rahman, as is displayed by him in this case, the whole story about the bribe appears to be a fabrication.

Under the above consideration of the case, prisoner cannot be convicted of the offence with which he stands charged. He is therefore discharged from it for want of sufficient proof.

The Rs. 6 produced in evidence are ordered to be credited to Government.

Confirmation by the Magistrate.—Vide remarks on Case No. 27, which apply to this also.

Finding and Sentence by the Acting Hoozoor Deputy Magistrate in Case No. 30, confirmed by the Magistrate.—It is quite in evidence that the cargo of the salt with which the two vessels were laden, and which had been detained in the Karanja Bunder on suspicion of containing excesses over and above the quantities covered by their 'purwanahs,' by order of the Preventive Inspector, Mr. MacDonald, belonged to one Dewkurn Kowra, whose agent prisoner is. Prisoner must therefore have been deeply concerned in the releasement of those vessels. It is in evidence that prisoner did get on board the Inspector's boat the same morning he had learnt that his vessels had been detained, and that out-turn measurements were to be made of the cargo con-

tained in them. Mr. MacDonald deposes on oath to the fact of prisoner having been seen just behind the Tindal, Abdool Rahman (witness No. 2), when the latter delivered over this note of Rs. 100 to him and placed it on his desk. On this Mr. MacDonald immediately asked prisoner, who was then standing near the Tindal, why he had presented that note to him, when he said, "for Saheb's 'moolaquat,' " *i. e.* for an interview with the Saheb, and then disclosed the secret of this moolaquat. Witness No. 2 corroborates this point. Witnesses Nos. 3 and 4 (the two Khalasees of Mr. MacDonald's boat) depose to the fact of their having seen prisoner conversing with the Tindal and handing over to him a note—one saying a paper, not knowing what a note was—during this conversation, before he was introduced to Mr. MacDonald in his cabin by the Tindal. Immediately after Mr. MacDonald showed this note to several other people, who came on board his boat previous to forming themselves into a committee, which was then to be held for making an out-turn measurement of the salt then suspected to be in excess. The excess was discovered. From all the circumstances of the case, it is manifest that prisoner could have no other motive in getting on board the Inspector's boat except to induce him to countermand his order for the detention of his vessels, through the means of bribe, if practicable. Prisoner's own version is, that his object in calling on Mr. MacDonald on board his boat that morning was to ascertain from him the cause of the detention of his vessels; but in doing so he offered no bribe, and he knows nothing as to how Mr. MacDonald produced this note of Rs. 100. If, in spite of the evidence adduced on the other side, prisoner alone could be supposed to tell the real fact, the supposition must involve the admission that, in the hope of obtaining reward from the proceeds of the future confiscation, the

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Inspector and his men had combined to effect his ruin for their own benefit by raising a false accusation against him—a supposition which hardly appears under the circumstances recorded in this case to be so probable as the one which goes against prisoner.

The Acting Deputy Magistrate cannot, however, avoid this opportunity of remarking that the conduct displayed by the Inspector's Tindal, Abdool Rahman (witness No. 2), in this as well as in the case which preceded this, was highly reprehensible, inasmuch as he states that when prisoner asked him whether Mr. MacDonald could release his vessels, he said that he could, and that he would introduce him to Mr. MacDonald if he would bring the proposed sum. Neither does he appear to have acted conformably to Mr. MacDonald's instructions in holding his conversation with prisoner in the presence of other parties.

On the whole consideration of the case, the Acting Deputy Magistrate has, however, no hesitation to convict prisoner of the charge laid against him; and therefore he is convicted and found guilty of the same.

Prisoner is sentenced to pay a fine of two hundred (200) rupees, or, in default of the payment, to undergo four (4) months' imprisonment, without labour, under Section VIII. Act I. of 1852.

This sentence is subject to the confirmation of the Magistrate.

The Rs. 100 note produced in evidence is ordered to be credited to Government.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to ascertain and report what Act and authority empowered Mr. MacDonald to detain the parows and measure the export cargo after they had received their papers.

Return by the Magistrate.—The Magistrate of Tanna, in returning this Precept within the prescribed time, begs

to report, that on referring the matter to the Deputy Commissioner of Customs, Salt, and Opium, he furnished the following explanation:—

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“The Deputy Commissioner Southern Division begs leave to inform the Magistrate of Tanna that the parows in question contained cargoes of salt, and, as such, that they were liable to be examined under the provisions of Act XXXI. of 1850. That the Preventive Inspector of this Division, having discovered that an excess of salt existed over that covered by certificate, reported the circumstance to the Deputy Commissioner, who instructed him thereon to re-measure the cargoes, with the view of ascertaining the *actual amount* of salt in excess of that covered by certificate, which was accordingly done under the provisions of Section IV. of the above-quoted Act.

“The proceedings which led to the detection of the vessels were, therefore, the Magistrate of Tanna will perceive *entirely connected with the Excise law*, and in no way connected with any criminal or other proceedings arising out of the offer of bribes, the revision of which proceedings, the Deputy Commissioner implies, is being conducted by the Court of the Sudder Foujdaree Adawlut.”

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The whole of the proceedings in these cases appear to me most unsatisfactory.

W. E. Frere,
Puisne Judge.

It appears that a salt merchant at Panwell, named Dewkurn, had two parows, the one named ‘Shumsheir’ and the other ‘Guneshpursaud,’ laden at Karanja with salt, and having obtained port clearance and other papers, they were ready to sail for Cochin.

That Mr. MacDonald, Preventive Inspector of the Coast Guard Establishment, was informed by his Jemedars that while the first measurement was being made at the salt-pans, they pressed the salt very hard in the measurement, and that on the Salt Daroga’s testing the

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measurement when the vessel arrived at Karanja, a deficiency of about 49 maunds was found in the cargo. Upon this Mr. MacDonald ordered the vessels to be detained for what is called the out-turn measurement, and then an excess of 13 maunds and some seers, over the permit for maunds 648, was discovered on board the 'Shumsheir,' and on board the 'Guneshpursaud,' with a permit for 720 maunds, an excess of 21 maunds was discovered; in the one case a little more than 2 per cent. and in the other something less than 3 per cent.

The petitioner was tried for offering a bribe of Rs. 100 to Mr. MacDonald to induce him to countermand his order for the detention of the boats for examination, and was, on conviction, under Section VIII. Act I. A. D. 1852, fined Rs. 200, or four months' imprisonment, for offering a bribe to a Custom House Officer to induce him to act in a manner inconsistent with his duty. Mr. MacDonald is, I suppose, a Custom House Officer appointed under Section V. of that Act.

The Magistrate was called upon to report the authority under which Mr. MacDonald detained the parows and measured the export cargo after the Tindals had received their papers; and in reply we are informed, on the authority of the Deputy Collector of Customs, that the parows containing salt were liable to be examined under the provisions of Act XXXI. of 1850, and it is suggested to us that the proceedings were entirely connected with the Excise laws, and in no way connected with any criminal proceedings, the revision of which we are supposed to be conducting; Mr. Robertson, the Deputy Collector of Customs, appearing to forget that it is a necessary element in the offence of offering a bribe that the Officer should be acting in conformity with his duty when the bribe is offered. I cannot find that Act XXXI. of 1850 gives a Custom House Officer power to detain a boat after she has obtained her port clearance, and the provi-

sions of Sections XVI. XXIII. LXIV. and LXXIV. of Act I. of 1852 would show that precautions are to be taken before a boat obtains her port clearance that she has nothing on board contrary to law, and provide for further search at the port of import, but I cannot find that Mr. MacDonald had any power to detain the boats: and Acts I. of 1838 and XVI. of 1844 do not contemplate the proceeding adopted in this case, even if they were still unrepealed; but Act I. of 1838 is directly, and the other by implication, repealed by Act I. of 1852. Mr. MacDonald, then, having unjustly and improperly detained these boats, was not acting in a manner consistent with his duty; and the petitioner offering a bribe to him to act otherwise than as he was doing committed no offence, for all he wanted the Custom House Officer to do was to do his duty. The conviction and sentence must therefore be reversed.

It has not been necessary to notice the very small increase over the amount for which the permit was given which appears in this case. Under any circumstances I should have thought the Custom House Officer had interfered officiously and offensively when he detained a vessel to discover by exact measurement an error of 3 per cent. in 600 or 700, particularly when the ordinary measurement is not required to come within 7 per cent., as appears from the Salt Daroga's measurement, for we must recollect that Mr. MacDonald's suspicions were not aroused by there being 50 maunds less, according to the Daroga's measurement, of what ought to have been 648, but because his Jemedars had told him the measures had been packed very close.

The Magistrates and their Assistants and Deputies should be informed that, as the Custom House Officers have invidious duties to perform, and such as might lead men to tempt them with bribes, it is very necessary that they should be protected from temptation, and those who

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tempt them punished ; but Magistrates must very carefully see that the Custom House Officers do not, by exceeding their powers, induce men to offer them money, or, by bringing false charges of bribery, procure for themselves an immunity from suspicion, and the natural result—the means of taking bribes with impunity. The Magistrates cannot watch too jealously those men who come and confess that their honesty has been assailed, for there is always too much reason to suspect that before a man's honesty is attempted, he laid himself out for the purpose—a course only to be justified in extreme cases, or that there is an impression abroad that his honesty is not invulnerable.

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—I am unable to concur in the view taken of this case by my brother Judge. The objection raised is that the prisoner was convicted of having offered a bribe to Mr. MacDonald, an Officer of the Coast Guard, to induce him to act in a manner inconsistent with his duty by countermanding an order for the detention of certain boats belonging to the prisoner in order that their cargo might be re-examined ; and it is contended that as the said boats had obtained their port clearances, Mr. MacDonald had no authority to issue such an order, and therefore Mr. MacDonald would be only acting in conformity with his duty in withdrawing the order, and therefore the prisoner committed no offence in offering him a bribe to do his duty.

Although I am unable to find any regulation which would authorise a Custom House Officer to detain a vessel after her port clearance had been obtained, I should say that it is nowhere provided that the granting of a port clearance exempts vessels or goods from the consequences of smuggling. It is laid down that no vessel shall proceed to sea without a port clearance, but it is nowhere said that the Customs Authorities may not cancel and resume a port clearance obtained under false

pretences. It is the express duty of the Coast Guard to check the improper granting of port clearances ; he is delegated by the Commissioner of Customs for this express duty ; and, on finding on board a vessel unmanifested goods, he at once suspends the clearance, as Mr. MacDonald did in this instance, when he found from his Jemedars that the salt had been improperly measured. I am therefore of opinion that Mr. MacDonald did not act contrary to his duty in detaining the vessels, and that the prisoner, in offering him the bribe to release them, laid himself open to the charge of bribery, of which he has been properly convicted.

Supposing it to be otherwise, however, and that the prisoner bribed him to act in conformity with his duty, I confess I am unable to distinguish the difference pointed out by Mr. Frere. If a person is injured by an illegal order, and endeavours to get that order reversed by illegal means (such as corrupting Officials by the offer of a bribe), I must say I think he is equally amenable to the provisions of the Bribery Act.

Mr. MacDonald, as Officer of the Coast Guard, holds a most responsible situation, and one open to very great temptation, and I therefore think we are bound to afford him all the protection the law gives him ; and under this view of the case I would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

Minute by Mr. Harrison.—In this case the petitioner has been convicted of offering a bribe to Mr. MacDonald, a Customs Officer, to induce him to release his vessels detained on account of suspicion of a shipment of salt in excess of that for which he had obtained his port clearance.

A penal clause, such as Section VIII. Act I. of 1852, under which petitioner was convicted, must be rigidly construed ; and I think the question therefore is, whether

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Mr. MacDonald was required by his duty to detain the vessels, for the offence consists in bribing a Customs Officer to induce him to act inconsistently with his duty, and, unless he was so required, it was not committed. The petitioner, in offering the money at all, may have acted immorally and improperly, but, if he did not break the law, he cannot be punished under it.

The vessels detained by the Inspector in this case had obtained their port clearance after due inquiry and measurement of the quantity of salt they carried. Before they had sailed, however, on suspicion of excess they were detained, and the salt was re-measured, when it was found that there was a small quantity over and above that manifested, such as might, perhaps, have been accounted for by a mistake in the operation. The question of the authority for the detention having been raised, the Magistrate, whose report was called for, states, in the words of the Deputy Commissioner of Customs, that Section IV. of Act XXXI. of 1850 authorised it. It seems, however, that this Act was repealed by Act I. of 1852, "An Act for consolidating the laws relating to the Customs under the Presidency of Bombay." I do not find in that law any authority for the proceeding of the Inspector, Mr. MacDonald, and must therefore conclude that he was not strictly within his duty in detaining the vessels, and that the petitioner is not liable to punishment for offering him a bribe to induce him to release them, and that the sentence should be annulled.

Final Resolution of the Sudder Foujdaree Adawlut.—
The conviction and sentence are annulled, and the fine to be returned.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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BELGAUM.

[Case No. 99 of the Calendar of the Dharwar Sessions Court for 1855.

Committed by the Second Assistant Magistrate of Belgaum, C. F. H. SHAW, on the 27th July 1855. Tried by the Session Judge, A. W. JONES, on the 11th, 13th, 15th, 16th, 22nd, 23rd, 24th, and 25th October; and 19th December 1855. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner Purushram Gopenath Atowlay.]

- Prisoners.*—No. 1, Purushram Gopenath Atowlay, Brahmin, aged 30.
 2, Junardhun Bachajee Moolay, Brahmin, aged 35.
 3, Sukaram Mahdeo Bhut, Brahmin, aged 35.

Conspiracy to Injure and Impoverish by Bhar; and Concealment of the above Crime after the Fact.

Charge.—Against prisoners Nos. 1 and 2, conspiracy (Regulation XVII. of 1828, Section 1st); in having, with others not apprehended, and the exact date not known, but about the month of October or November 1853, (corresponding with Ashwin or Kartik, Shuké 1775,) conspired together, and formed themselves into a gang, for the purpose of injuring and impoverishing people by the process termed ‘bhar’; whereupon they proceeded to the town of Akulkote, Zillah Sholapore, and swindled, by bhar, one Dajee Saheb Bhonslay, out of gold ornaments alleged to be of the value of Rs. 5,000.

And against prisoner No. 3 (Sukaram), concealment of the above crime after the fact; in that, though aware of it, he gave no information to the Authorities.

Finding and Sentence by the Sessions Court.—In this case the prisoners Purushram and Junardhun are charged, with conspiracy, in having swindled one Dajee Saheb of gold ornaments, &c. worth about Rs. 5,000; and prisoner Sukaram is charged with concealment after the fact; and they all plead not guilty.

A. W. Jones,
 Session Judge.

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It appears by the evidence of the approver that he started, in company with the two first prisoners and two other persons, from Poona, about the month of October 1853, and went to Sholapore, and that he and a man named Rowjee went on to Akulkote, where they were joined in four or five days by the two prisoners Purushram and Junoba, and two other persons, named Gunputrow and Rama (a servant). The chief manager of the fraud in this case appears to have been this Gunputrow, who has not been apprehended, and Purushram (prisoner No. 1). In three or four days after they were thus assembled, these two persons announced that they had prepared a case of bhar; and Gunputrow with the approver went accordingly to one Dajee Saheb (who is apparently an Officer of rank employed under the Rajah of Akulkote), and made the usual proposals to him of discovering to him, on condition he would advance a large sum of money, a quantity of treasure which they said his father, who had been in the Peshwa's service, had buried on leaving that part of the country.

Dajee Saheb, it appears, desired to be satisfied that the treasure existed, and therefore directed a trusty servant, Naynsook (witness No. 2), to go with these people and ascertain this point. He accordingly started, taking with him a servant (witness No. 4), and going to a village beyond Sholapore, in the Mahal Talooka, with Gunputrow Apā Joshee, as he is called by witnesses Nos. 2 and 4, with his servant Ramjee, and Sewdial (or, as he is called by these witnesses, Ramdeen), they were met beyond the village by the prisoner No. 1 (Purushram), and, when darkness came on, the usual bhar trick was played off on Naynsook and his companion, and a 'ghāra' or copper-pot was dug out of the ground and shown him, apparently full of gold ornaments, and a piece of gold previously prepared was given him as that cut off

one of these ornaments. The copper pot was taken charge of by the prisoner No. 1, and Naynsook and Gunputrow and his servant returned to Akulkote, where the piece of gold was shown to Dajee Saheb.

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The next thing to be done was to get hold of the valuables to be given by Dajee Saheb in exchange for this pretended treasure, and this was managed at the village of Takleh, to which place Naynsook took them and showed them to the party, viz. prisoner No. 1 (Sewdial, the approver) and Gunputrow. When they had been examined they were put by Naynsook into a bag given him by Gunputrow, who then took the bag from him to show how it ought to be tied; and the approver deposes that while Naynsook's attention was purposely diverted for a moment or two, Gunputrow managed to exchange the bag containing the real ornaments for one exactly like it with some lead in it, which had been got ready beforehand for the purpose.

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Naynsook however does not know how this was managed, but the bag was put in a box, which was locked and tied up in a cloth and sealed. After this the prisoner No. 1 (Purushram) was sent for the ghara. Naynsook says he wished to open it at once, but they overpersuaded him not to do so, by saying that the first prisoner was going with him to Akulkote to hand over himself all the ornaments it contained to Dajee Saheb.

Next morning early, accordingly, Naynsook and a servant and the prisoner No. 1 (Purushram) started on their return to Akulkote. On the way, however, the latter separated from the other two, saying he would rejoin them. This, however, he never did; Naynsook's other servant (witness No. 4) had gone with the rest of the party to dig up the remaining treasure, as they said; but they also managed to give him the slip, and he came back to Akulkote, where his story raised Naynsook's suspicions; and so the ghara was opened and found to

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contain nothing but gravel, and the bag was found to contain nothing but bits of lead.

Now, the evidence to establish the concern of the prisoners in this crime consists of that of Naynsook, the servant of Dajee Sahab, who managed the affair for him, supported by that of a fellow-servant (witness No. 4), and their evidence entirely corroborates that of the approver; and, though there may be some differences in their several ways of telling the story, the Session Judge does not think there is anything of such consequence as to throw doubt on the approver's evidence.

He is identified by witness No. 2, as well as by witness No. 4, who appears to have remained several days in company with him between the time when the ghara was shown and Dajee Sahab's valuables were obtained; and with regard to the identification of Purushram (prisoner No. 1), witness No. 2 deposes to having seen him among the people he first saw at the Motee Bhag, in Akulkote; and witnesses Nos. 2 and 4 both identify him as having met them and assisted in showing the ghara, and as having been present at the showing of Dajee Sahab's valuables, and the exchange of them for the ghara, and, finally, as having started back with Naynsook for Akulkote, where the pretended treasure was to have been handed over by him to Dajee Sahab; and both the witnesses Nos. 2 and 4 identified the first prisoner and the approver, Sewdial, when they were shown them among other persons before Captain Henry Hervey, the Assistant Superintendent of the Thuggee Department.

The Session Judge therefore considers the evidence is sufficient to establish the complicity of prisoner No. 1 (Purushram) in the conspiracy to defraud Dajee Sahab, and he is therefore convicted, as charged; in having, with others not apprehended, and the exact date not known, but about the month of October or November 1853,

(corresponding with Ashwin or Kartik, Shuké 1775,) conspired together, and formed themselves into a gang; for the purpose of injuring and impoverishing people by the process termed bhar; whereupon they proceeded to the town of Akulkote, Zillah Sholapore, and swindled, by bhar, one Dajee Saheb Bhonslay, out of gold ornaments alleged to be of the value of Rs. 5,000.

There is nothing but the evidence of the approver against prisoner No. 2 (Junardhun), and none at all to prove the charge against prisoner No. 3 (Sukaram). They are both therefore acquitted.

The sentence against Purushram is, however, postponed, as there are other charges against him.

* * * * *

The Session Judge proceeds to record that he will be absent on leave for the next month, and that the Assistant Magistrate has not yet made any answer as to the further prosecution of the prisoner in the other case, and that it does not seem proper to delay the final disposal of this case any longer, and that he (the Session Judge) therefore decides to pass sentence on the conviction recorded against the prisoner on the 25th October.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XVII. of 1828, the following sentence is passed:—

That you, Purushram Gopenath Atowlay, be imprisoned and kept to hard labour for four (4) years, and then pay a fine of two thousand (2,000) rupees, or be imprisoned, also on hard labour, for a period of two (2) more years.

The sentence to be considered as commencing from the date of conviction.

Having now passed sentence in the last of these cases before him, the Session Judge cannot allow the result to be made known to the Magistrate, without recording his opinion that Captain Hervey deserves the greatest credit

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for his exertions in bringing these cases to light, and tracing them in the manner he has done; and it is to be hoped that the publicity thus thrown on the operations of these gangs will put a stop to their depredations for the future, or at any rate will put people on their guard, and encourage them to come forward at once with their evidence in case any future attempts of the kind should be made.

The Assistant Magistrate also deserves great credit for the great pains and trouble he has taken in sending these cases up,—the Mhapsee case, No. 95, in particular, wherein were given complete translations of the voluminous confessions of the approvers, relating their concern in all the ten cases committed for trial; his proceedings in the Mhapsee case alone amounting to 340 pages.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause to interfere, and reject the petition.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 5 of the Calendar of the Konkun Sessions Court for 1857. Committed by the Acting Deputy Magistrate, DADOBA PANDORUNG, on the 10th February 1857. Tried by the Acting Session Judge, H. P. ST. G. TUCKER, on the 16th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Perjury.

Prisoner.—Pemee, Widow of Hira, Soortee Kolee, aged 35.

[See pages 209 to 212, Vol. VII. for previous proceedings in this case.]

Charge.—Perjury (Regulation XIV. Section XVI. Clause 1st, of 1827, and Act No. V. of 1840); in that, on 23rd December 1856, (corresponding with Margsheersh Wud 11th, Shuké 1778,) in the Town of Tanna, Talooka Salsette, Zillah Konkun, she did declare on

solemn affirmation, in the Sessions Court, before H. P. St.G. Tucker, Esquire, Acting Session Judge, that “a gold ear-ring with two large pearls and a glass bead, and a nose-ring with three large pearls and nine small ones and one red and one white precious stone, two pairs of silver anklets, and one silver chain with three loose links, were given to her to take care of by the prisoner Bhana, *in the month in which the last Hoolee took place*”;—the above statement being false, and wilfully made with intent to screen the prisoner Bhana, therein alluded to; who was then on his trial on a charge of robbery.

The prisoner pleads guilty.

Finding and Sentence by the Sessions Court.—The prisoner's son, Bechur, was originally arrested in the streets of Bombay with a bag of ornaments, which both he and the prisoner then stated had been given to them by a relative, named Bhana Pitamber, to take care of in the preceding Dewalee (October). The man Bhana was then in prison, charged with having committed a large robbery at Tanna in the month of July last, and some of the pearls in the ornaments found in the possession of the prisoner and her son were identified as part of the property stolen at that robbery, while there was every reason to suppose that the remainder had been manufactured out of the proceeds of the stolen goods. Bhana and others were tried for the robbery, and the prisoner and her son were committed with them, charged with the criminal receipt of stolen property. The boy was at once acquitted, on the ground of his youth, and of his having acted under the instructions of his mother (the prisoner), and the prisoner was pardoned and admitted as a witness in the case. Before her examination she was most carefully warned to speak the truth, and informed that no further proceedings could be instituted against her on account of the receipt of the property. In spite of this warning she persisted in stating that Bhana Pitamber had given

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her the ornaments during the preceding Hoolee (March), the object of the false statement being to screen Bhana, by showing that the ornaments had been in his possession before the robbery at Tanna took place. The falsity of the prisoner's statement in regard to the time at which she received the ornaments was clearly established, as it was shown that one of these ornaments, viz. the silver chain with some loose links, had been made for Bhana in Bombay by a silversmith in the Dewalee, and it was therefore impossible that the prisoner could have received this chain in the previous Hoolee. The prisoner has now, after hearing evidence read over, which, if admitted to be true, is sufficient to prove the charge, against her, admitted that she made a false statement regarding the time at which she received the ornaments, at the instigation of Bhana. She is therefore convicted of perjury, as set forth in the charge on, which she has been arraigned.

The Court of Sudder Adawlut quashed the proceeding held in the former case against the prisoner, because, as stated in the extract from their proceedings, the prisoner and her son were tried *on one charge*. In this statement, however, there is a mistake. The prisoner and her son were arraigned in one case but tried *on separate charges*, in which the precise words uttered by each individual were stated; and as such very distinct crimes as robbery and the criminal receipt of stolen property are, according to the practice which now obtains, tried together, it appeared to me that two perjuries of a precisely similar character, committed on the same date, at the same place, and with the same object, might be tried at the same time, the more especially as the witnesses necessary to prove each crime were the same persons.

The procedure was calculated to save time, and was not without precedent (vide Morris's Reports, Vol. IV. page 240); and I am aware of no reasonable objection that

can be urged against it. As it is not just that the prisoner should be subjected to a more lengthened period of imprisonment in consequence of the error which the Court of Sudder Foujdaree Adawlut held to have been committed at the first trial, I now sentence her (Pemee, widow of Hira), subject to the confirmation of the superior Court, to be imprisoned and kept to hard labour for the period of two (2) years from 22nd January 1857, the date on which she was originally sentenced. (Regulation XIV. Section XVI. Clause 2nd, of 1827.)

In the Sudder Foujdaree Adawlut; Minute recorded by Mr. Frere, concurred in by Mr. Harrison.—Under present circumstances I should have refrained from remark on this case, had it not been for the precedent Mr. Tucker quotes in support of his procedure, which might lead others to think that our opinion was altered, though we did not confess it, and that we had overlooked this precedent when returning the case.

The case quoted by Mr. Tucker was heard on appeal by Messrs. Remington and Larken, and as neither of them is now with us we cannot ascertain what view they took of the proceeding; but the probability is that, finding there was no doubt of the petitioners having committed perjury, they rejected the petition without thinking it necessary to remark upon a procedure which was not brought to their notice, and I do not infer from it that they would not have noticed the mistake had the case come before them, as this one comes before us, for confirmation.

Mr. Tucker was informed that he had tried two prisoners on one charge of perjury; he corrects us by showing that he has in one case tried two prisoners on separate charges of perjury. Of the two mistakes, perhaps the latter, of trying two separate charges in one case, is the greater; for there is nothing common to the two charges but that they are charges of perjury, and

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W. E. Frere,
Puisne Judge.
W. H. Harrison,
Puisne Judge.

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that there are by chance the same witnesses to prove each case; but I have never yet heard it proposed that, because there are the same witnesses in two different cases, the cases should be united in one trial.

Mr. Tucker argues, from the supposed analogy of charges of robbery and the receipt of stolen property being tried together, that two perjuries might be tried together too; but a little consideration might have shown him that the cases are utterly dissimilar. In all those cases I have seen in which separate charges of robbery and receipt of stolen property have been brought against different prisoners, A being charged with the robbery, and B with the receipt of stolen property, which is the strongest case that could be brought forward, the property has in both cases been the same and the evidence required to prove the two cases was the same—that the property had been stolen and that it was found in the possession of B, having been put there directly or indirectly by A; the fact of its having been stolen by A being almost as important an element towards B's conviction as its being found in B's possession is for A's conviction.

If a case was shown us wherein A was charged with robbing B, and C with receiving property stolen from E, tried in one case, I might admit the analogy though I could not approve of the procedure. Mr. Tucker informs us that he is aware of no reasonable objection that can be urged against his former procedure in these cases, but still I am well satisfied with the rule I find in Russell's Crimes and Misdemeanors, Vol. II. page 622, "that several persons cannot be joined in one indictment for perjury, the crime being in its nature several."

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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TANNA.

[Case No. 6 of the Calendar of the Konkun Sessions Court for 1857. Committed by the Acting Deputy Magistrate, DADOBA PANDORUNG, on the 10th February 1857. Tried by the Acting Assistant Session Judge, H. P. St.G. TUCKER, on the 16th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Bechur bin Hira, Soortee Kolee, aged 15.

Perjury.

[See pages 209 to 212, Vol. VII. for previous proceedings in this case.]

Charge.—Perjury (Regulation XIV. Section XVI. Clause 1st, of 1827, and Act V. of 1840); in that, on 23rd December 1856, (corresponding with Margsheersh Wud 11th, Shuké 1778,) in the Town of Tanna, Talooka Salsette, Zillah Konkun, he did declare on solemn affirmation, in the Sessions Court, before H. P. St.G. Tucker, Esquire, Acting Session Judge, that “in the month in which the last Hoolee took place, one day I was alone at our lodging; my mother had gone to procure grain to be ground; the prisoner Bhana came and gave me an ear-ring with two large pearls and a glass bead, a nose-ring with three large pearls and nine small ones and one red and one white precious stone, two pairs of silver anklets, and one silver chain with three loose links, to keep; I took them and gave them to my mother, Pemee”;—the above statement being false, and wilfully made with intent to screen the prisoner Bhana Pitamber therein referred to, who was then on his trial on a charge of robbery.

The prisoner pleads guilty.

Finding and Sentence by the Sessions Court.—The prisoner, a lad 12 years of age, was originally arrested in the streets of Bombay with a bag of ornaments, which both he and his mother, Pemee, stated had been given

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 Tucker, Acting
 Session Judge.

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Perjury.

to them by a relative, named Bhana Pitamber, to take care of, in the preceding Dewalee (October). The man Bhana was then in prison, charged with having committed a large robbery at Tanna in the month of July last, and some of the pearls in the ornaments found in the possession of the prisoner and his mother were identified as part of the property stolen at that robbery, while there was every reason to suppose that the remainder had been manufactured out of the proceeds of the stolen goods. Bhana and others were tried for the robbery, and the prisoner and his mother were committed with them, charged with the criminal receipt of stolen property. The prisoner was at once acquitted on the ground of his youth and of his having acted under the instructions of his mother, and the mother was pardoned and admitted as a witness in the case. The evidence of the prisoner was also deemed necessary, and before his examination he was most carefully warned to speak the truth, notwithstanding which he persisted in stating that Bhana Pitamber had given him the ornaments during the preceding Hoolee (March); the object of the false statement being to screen Bhana, by showing that the ornaments had been in his possession before the robbery at Tanna took place. The falsity of the prisoner's statement in regard to the time at which he received the ornaments was clearly established, as it was shown that one of these ornaments, viz: the silver chain with some loose links, had been made for Bhana in Bombay by a silversmith in the Dewalee, and it was therefore impossible that the prisoner could have received this chain in the previous Hoolee. The prisoner has now, after hearing evidence read over, which, if admitted to be true, is sufficient to prove the charge against him, admitted that, at the instigation of Bhana, he made a false statement regarding the time at which he received the ornaments. Though young, he well understood that he was acting criminally in making this false statement.

He is therefore convicted of perjury, as set forth in the charge on which he has been arraigned.

The Court of Sudder Adawlut quashed the proceedings held in the former case against the prisoner, because, as stated in the extract from their proceedings, the prisoner and his mother were tried *on one charge*. In this statement, however, there is a mistake. The prisoner and his mother were arraigned in one case but tried on *separate charges*, in which the precise words uttered by each individual were stated. As such very distinct crimes as robbery and the criminal receipt of stolen property are, according to the practice which now obtains, tried together, it appeared to me that two perjuries of a precisely similar character, committed on the same date, at the same place, and with the same object, might be tried at the same time, the more especially as the witnesses necessary to prove each crime were the same persons. The procedure was calculated to save time, and was not without precedent (vide Morris's Reports, Vol. IV. page 240), and I am aware of no reasonable objection that can be urged against it.

On account of the prisoner's youth, I originally sentenced him to twenty days' solitary confinement and a flogging. As by the annulment of the former trial he will have been detained nearly a month longer in prison than he would otherwise have been, I deduct on this account five days of solitary confinement. By Regulation VIII. of 1831 solitary imprisonment is supposed to hold, in regard to ordinary imprisonment, the ratio of 1 to 6. Prisoner Bechur bin Hira is sentenced (subject to the confirmation of the Sudder Foujdaree Adawlut) to be imprisoned in solitary confinement for a period of fifteen (15) days from the date on which the order of the superior Court may be received, and to receive prior to his confinement twenty-five (25) stripes with a cat-o'-nine-tails on his bare back. (Regulation XIV. Section XVI. Clause 2nd, of 1827.)

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In the Sudder Foujdaree Adawlut.—[See Minute of W. E. Frere, in preceding case.]

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

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March 4.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDNUGGUR. [Case No. 59 of the Calendar of the Sessions Court of Ahmednug-
gur for 1856. Committed by the Third Assistant Magistrate,
G. F. SHEPPARD, on the 16th August 1856. Tried by the
Assistant Session Judge, A. E. D. GREY, on the 26th August
1856. Referred to the Session Judge, J. W. WOODCOCK, for
Report, on the petition of the prisoner.]

Robbery by Night,
with Force.

A. E. D. Grey,
Assistant Session
Judge.

Prisoner.—Rama wulud Vitoo, Koonbee, aged 35.

Charge.—Robbery by night, with force.

Conviction and Sentence by the Sessions Court.—Con-
victed, and sentenced to be imprisoned eighteen (18)
months, with hard labour. (Regulation XIV. A. D. 1827,
Section XXXVII.)

*Petition of Rama wulud Vitoo to the Sudder Fouj-
daree Adawlut.*—[Praying that the evidence he has to
produce in his case may be ordered to be taken.]

*Precept issued by the Sudder Foujdaree Adawlut to
the Session Judge.*—The Session Judge is to be request-
ed to report as to the prisoner's allegation that the evi-
dence of his witnesses was not taken.

Return by the Session Judge.—The extract has been
duly received, and, in exigence thereof, the Session
Judge begs to report, for the information of the Judges
of the Sudder Foujdaree Adawlut, that the prisoner
named no witnesses to be examined during his trial be-
fore the Assistant Session Judge, nor does it appear from
his statements made before the Magisterial Authorities,
and recorded in the case by the Sessions Court, that he
wished any witnesses to be called. He appealed to the

Session Judge against the sentence passed by the Assistant Session Judge, but as the prisoner showed no good reason for interference, his petition was rejected without a review of his case.

The petition is herewith returned, as directed.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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AHMEDNUGGUR.

Robbery by Night,
with Force.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 14 of the Criminal Return of the Magistrate of Broach for December 1856. Tried by the Hoozoor Deputy Magistrate, NOWROJEE BYRAMJEE, on the 22nd December 1856. Confirmed by the Magistrate, C. J. DAVIES, on the 29th December 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner Sooltanalee Goolabalee.]

BROACH.

Prisoners.—No. 1, Kulyan Khoosal, Sonee, aged 24.

2, Sooltanalee Goolabalee, Mussulman, aged 30.

3, Hureebhaee Vujeeram, Sonee, aged 40.

4, Peetamber Kurson, Bhadbhoja, aged 20.

5, Ahmedjee Ubdoool Kureem, Mussulman, aged 30.

Receiving Stolen
Property, knowing
it to be such ; and
omitting to in-
form the Police
Authorities.

Charge.—Receiving stolen property, knowing it to be such ; in that, in the town of Broach (exact date unknown, but within the last twelve months), they received, each from the other, a 'hooka' worth about Rs. 6, belonging to the complainant, Goolam Alee Mahomed Ruza, the Foujdar of Broach, and stolen from his house it cannot be exactly ascertained when ; the prisoners well knowing the same to be stolen, or having evident grounds for suspecting it to be such, and yet omitting to give information thereof to the Police Authorities. (Regulation XIV. of 1827, Section XLI. Clause 1st.)

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BROACH.

Receiving Stolen
Property, knowing
it to be such ; and
omitting to in-
form the Police
Authorities.

Nowrojee By-
ramjee, Hoozoor
Deputy Magis-
trate.

1 Finding and Sentence by the Hoozoor Deputy Magistrate.—It is in evidence that the hooka before the Court belongs to complainant, and that it was mortgaged to witness No. 5 by prisoner No. 2 through witness No. 6. Prisoner No. 2 states that he purchased it from prisoner No. 1 for Rs. 1½. Now the question is, whether, at the time he bought it, he was cognisant of the fact that it was stolen property or not; whether, in fact, he had evident grounds for suspecting it to be such or not. The prisoner himself, in his defence, affects such gross ignorance as to lay himself at once open to suspicion. The Deputy Magistrate cannot give credence to his statement that he never saw such a hooka in his life, or that he is unable to state what it was or is worth, or even that such utensil can be had at a goldsmith's shop, or is used by a goldsmith. The prisoner's admission that it has a silver coating or lining is a sufficient refutation of his assertions; and the fact of such a thing being found in the possession of a Hindoo, and offered at such a low price, ought at once to have excited his suspicion and led him to inform the Police about it. The Deputy Magistrate cannot but therefore consider him guilty of the offence laid to his charge, and has sentenced him to pay a fine of thirty (30) rupees, or two (2) months' imprisonment in commutation thereof.

As regards prisoner No. 1, the Deputy Magistrate cannot consider him guilty, because, even if he believed the statement of prisoner No. 3, that he (prisoner No. 1) at once bought the thing and paid him the price thereof, yet the fact of his having sold it to prisoner No. 2 at once and for the same price for which he is alleged to have purchased it, exonerates him from the guilty knowledge implied by the charge brought against him; inasmuch as if he had been cognisant of the high price thereof, and tempted thereby to its purchase, he would not have disposed of it so cheaply.

But if we credit his allegation that he acted as a mid-

dleman, and had nothing to profit by, then he must be held entirely exempt from all responsibility in the matter. For these reasons the Deputy Magistrate has acquitted and discharged prisoner No. 1.

As to prisoner No. 3 again, he is, for the same reasons as are recorded against prisoner No. 2, convicted of the offence laid to his charge, and sentenced to pay a fine of thirty (30) rupees, or in default to undergo two (2) months' imprisonment.

Against prisoners Nos. 4 and 5 there is no evidence whatsoever; and they, too, are therefore acquitted and discharged. The hooka ordered to be delivered to complainant. (Regulation XIV. of 1827, Section XLI. Clause 1st.)

Confirmation by the Magistrate on Appeal.—Sooltan-alee admits having bought the hooka (which complainant values at Rs. 10, and which I presume, from the charge, the Deputy Magistrate values at Rs. 6) for Rs. 1½ from Kulyan Khoosal (prisoner No. 1). He urges in his petition of appeal that he believed Kulyan to be a respectable man, and, in his defence before the Deputy Magistrate, he urges that he was ignorant that the value of the hooka was greater than the amount which he paid for it. This ignorance is in itself improbable, and is, I think, altogether disproved by the fact, admitted by himself, that he *pawned* it for Rs. 2, for half a rupee more than he had *bought* it for. He could not have been so ignorant as to think that the selling value of the hooka was less than its value as a pledge. I confirm the conviction and sentence.

Prisoner No. 3 (Hureebhaee) admits that the hooka passed from his hands into those of Kulyan (prisoner No. 1) for Rs. 1½. He fails to prove his story that he was a mere go-between. Even if he were able to prove it, that would not, in my opinion, exonerate him from guilt in having received and passed on property which

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BROACH.

Receiving Stolen Property, knowing it to be such; and omitting to inform the Police Authorities.

J. Davies,
Magistrate.

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BROACH.

Receiving Stolen
Property, knowing
it to be such ; and
omitting to in-
form the Police
Authorities.

he had evident ground for suspecting to be stolen. It is true that he denies that he knew the value of the hooka, but, as he is by trade a gold and silversmith, I do not believe that he could have been ignorant of the value. I therefore confirm his conviction, and the sentence passed upon him.

I am unable to agree with the Deputy Magistrate in the reasons which he gives for having acquitted Kulyan (prisoner No. 1). He is by trade a gold and silversmith, and could not have been ignorant of the value of the hooka. He admits having been concerned in passing it from hand to hand, and that it remained in his possession for a day. He seems to me to have been clearly guilty of receiving. What cash profit he may have made on the transaction does not affect the question ; he must have had an interest of some sort, which led him to take part in the business.

Prisoner No. 4 (Peetamber) and No. 5 (Ahmedjee) were properly acquitted.

I shall be obliged to the Deputy Magistrate if he will in future, in the depositions and in his finding, designate the witnesses and prisoners by name as well as by number. Where there are more prisoners than one, it is difficult to discriminate witness No. 1 from prisoner No. 1, and so on.

Servant is scarcely a sufficient description ; the nature of the service should be stated, as Police Putawala, domestic servant, &c.

Measures should be taken for procuring the dismissal of Sooltanalee (prisoner No. 2) from the District Dawk Establishment.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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TANNA.

[Case No. 33 of the Criminal Return of the Magistrate of Tanna for September 1856. Tried by the District Deputy Magistrate, WAMNAJEE PANDOURUNG, on the 25th September 1856. Reviewed on Appeal by the Magistrate, E. C. JONES, on the 8th January 1857. Proceedings certified on the requisition of the Sudder Foudaree Adawlut, on the petition of the prisoner.] •

Prisoner.—Ramchunder Venaik, suspended Tulatee, Brahmin, aged 23.

Having been concerned in a Money Transaction with the Ryots of his Village, being a Revenue Officer.

Charge.—Under Regulation XVI. of 1827, Section XI. Clause 1st; in that you, being a Tulatee of Suja Clareabad, in Talooka Salsette, appointed by Government in May 1855, were, for your own benefit, concerned in trade between July 1855 and August 1856, in having lent money and grain to about nine cultivators of Clareabad, on your own account and that of your younger brother, Damodhur Venaik Koontey, amounting to Rs. 26-4-0.

The prisoner pleads guilty.

Finding and Sentence by the District Deputy Magistrate.—The above papers are read and recorded; and the prisoner, on being asked, says he has nothing more to say, nor has he any witnesses to produce.

Wamnajee Pandourung, District Deputy Magistrate.

From the admission of the prisoner, and the evidence above recorded, it is proved that the prisoner (Ramchunder Venaik) carried on trade in his own as well as his brother Damodhur Venaik's name. He is accordingly sentenced, under Regulation XVI. of 1827, Section XI. Clause 3rd, to pay a fine of forty (40) rupees, or, in default, to suffer three (3) months' imprisonment without labour.

Reviewed on Appeal by the Magistrate.—Ramchunder Venaik, having preferred an appeal, dated 2nd January 1857, the papers and proceedings in the case have been perused, and there seems no cause for interfering with

E. C. Jones, Magistrate.

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March 4. ' the above decision ; the appeal is accordingly rejected,
' and the petitioner informed to that effect.

TANNA. *Resolution of the Sudder Foujdaree Adawlut.*—The petition is rejected.

Having been concerned in a Money Transaction with the Ryots of his Village, being a Revenue Officer.

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March 4. *Present,* { WILLIAM EDWARD FRERE, } Puisne Judges.
ROBERT KEAYS, }

COLABA. [Case No. 3 of the Criminal Return of the Joint Magistrate of Colaba for November 1856. Tried by the District Deputy Magistrate, **BALAJEE KRISHNA**, on the 14th November 1856. Reviewed on Appeal by the Joint Magistrate, **L. REID**, on the 18th December 1856. Proceedings certified on the requisition of the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Employing a *Prisoner*.—Mahadoo bin Gopála, Kolee, aged 30.

Charge.—Employing a fishing boat without certificate of registry. (Act XIX. Section XIII. of 1838.)

Balajee Kristna, District Deputy Magistrate. *Conviction and Sentence by the District Deputy Magistrate.*—Convicted and sentenced to pay a fine of fifty (50) rupees, in default to be recovered by sale of the vessel. (Act XIX. Section XIII. of 1838.)

L. Reid, Joint Magistrate. *Reviewed on Appeal by the Joint Magistrate.*—The prisoner in this case has been convicted by the District Deputy Magistrate and sentenced to pay a fine of Rs. 50, in default to be recovered by sale of the vessel; and, after a review of the papers and proceedings, the Joint Magistrate sees no reason to interfere. The prisoner pleads guilty to the charge. He, moreover, fraudulently attempted to pass off a certificate of registry belonging to another vessel for his own, which if he had not been detected, would, from the difference of tonnage, have saved him the 'koontwa,' or anchorage fees.

The decision of the Deputy Magistrate is accordingly confirmed.

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COLABA.

Extract of a Letter from the Registrar of the Sudder Foudaree Adawlut to the Joint Magistrate.—I have the honour, by direction of the Judges of the Sudder Foudaree Adawlut, to acknowledge the receipt of your Criminal Return for November last, and to inform you that the fine inflicted on the accused in Case No. 3 appears five times that authorised by the Act quoted, and to request that you will have the goodness to review the case and favour the Court with a report thereon.

Employing a
Fishing Boat with-
out Certificate of
Registry.

Reply by the Joint Magistrate.—With reference to your letter No. 2787, dated 29th instant, I have the honour to report that, prior to the receipt of the Court's reference, I had, on the 18th instant, reviewed the case in question on an appeal from the prisoner, and found no reason to interfere with the conviction and sentence of the Deputy Magistrate, the prisoner having pleaded guilty to the charge of employing a fishing vessel without obtaining a certificate of registry. He, moreover, fraudulently attempted to pass off a certificate of registry belonging to another boat as appertaining to his own, which, if he had not been detected, would, from the difference of tonnage, have saved him the koontwa, or anchorage fees. There was, under the circumstances, no other alternative left but to inflict the penalty authorised by the Act, of "ten times the amount of the fees payable," which was Rs. 5.

Extract of a Letter from the Registrar of the Sudder Foudaree Adawlut to the Joint Magistrate.—With reference to Case No. 3, the Judges direct me to inform you that Section XIII. Act XIX. of 1838 clearly lays it down that the owner of a fishing vessel, who uses his boat without obtaining a certificate of registry, is subject only to a fine of Rs. 10, and the Judges therefore request you will have the goodness to certify your pro-

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Employing a
Fishing Boat with-
out Certificate of
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ceedings in this case, in order that your sentence may be corrected.

Reply by the Joint Magistrate.—With reference to your letter No. 147, dated 23rd ultimo, I have the honour to forward the papers and proceedings connected with Case No. 3.

With due deference, I would beg to submit that the reading of Section XIII. of the Act in question would appear to admit of the fine ten times the amount of the registration fee levied, as in the present case, when the certificate on demand was not produced. This fine, and the fine of Rs. 10 directly after quoted, would also appear to be two distinct punishments from the context, for the next expression is “which *fin*es (plural) may be recovered on conviction,” &c.

I have always read this Section as involving two penalties for one offence, the infliction of either the one or the other of which was optional.

Resolution of the Sudder Foujdaree Adawlut.—The Joint Magistrate is to be informed that the Court regret to find that he has always misread the Section in the way he mentions, and they only hope that he has not been called upon to inflict fines according to that reading, for they must all have been illegal.

If the Joint Magistrate reads Act XIX. of 1838, he will find that no fees are under Section VII. to be recovered from fishing vessels and harbour craft except for a *renewed* certificate, and therefore a fine of ten times the amount of fees payable in respect of the certificate of registry would be impossible; and for that reason the fine to be inflicted on fishing vessels and harbour craft is fixed at Rs. 10. This reading, the Joint Magistrate will find, is in perfect concord with the grammatical construction of the sentence he points out, the expression “which *fin*es may be recovered,” &c. referring, not to a fine of Rs. 10 and ten times the fee being both inflicted at the Magistrate’s pleasure, but to the fine of Rs. 10 which might be in-

flicted on the owners of fishing vessels and harbour craft, and the fine of ten times the amount of fee which might be inflicted on the owners of other vessels for non-compliance with the provisions of the Act, since, for the recovery of both these fines, the same procedure is provided.

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COLABA.

Employing a
Fishing Boat with-
out Certificate of
Registry.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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NASSICK.

[Case No. 1 of 1854. Committed by the Acting Joint Magistrate of Nassick, W. J. TURQUAND, on the 19th October 1854. Tried by the Session Judge of Ahmednuggur, at Nassick, J. W. WOODCOCK, by order of the Sudder Foudaree Adawlut, dated the 11th October 1854, No. 2488, on the 13th, 14th, 15th, 16th, 19th, 20th, 21st, and 26th December 1854. Proceedings submitted to the Sudder Foudaree Adawlut, on the petition of the prisoners.]

Prisoner.—Ramsing wulud Shamsing, Purdése, aged 26.

Murder ; and
Aiding and Abet-
ting in the Crime.

[See pages 624 to 660, Vol. III., for previous proceedings in this case.]

Letter from the Inspector General of Prisons to the Judicial Secretary to Government.—With reference to the circumstances mentioned in my letter No. 1051, of the 20th November 1856, I have the honour to report, for the favourable consideration of Government, the convict Ramsing, who behaved admirably on the occasion, and stoutly resisted the Chinese in their murderous attack, in the interim previous to the arrival of the guard to the rescue of the Deputy Jailor.

The prisoner is under sentence of four years' hard labour, and one month's solitary confinement. He was implicated in the Nassick Torture Case, and appears, therefore, as an accomplice in a crime of peculiar atrocity.

Fully considering this, it is also clear that, on the present occasion, he has been instrumental in saving life, and the example set by him is of exceeding value in the

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interest of discipline, and should not pass without marked notice.

I therefore beg to recommend that, in consideration of the above, the sentence of one month's solitary confinement and six months of the sentence of hard labour be remitted.

Letter from the Judicial Secretary to Government to the Registrar of the Sudder Foujdaree Adawlut.—I am directed to transmit to you copy of a letter No. 21, dated the 7th ultimo, from the Inspector General of Prisons, recommending that a portion of the sentence passed on a prisoner in the Ahmednuggur Jail be remitted, on account of his good conduct when the Deputy Jailor was recently attacked by some Chinese convicts in the Jail at that station, and to state that, under the circumstances mentioned in Mr. Bettington's letter, the Right Honorable the Governor in Council has been pleased to direct that the period of imprisonment awarded to the prisoner alluded to, named Ramsing (who is one of the prisoners concerned in the Nassick Torture Case), be diminished by six months of the imprisonment with hard labour.

The Right Honorable the Governor in Council has also been pleased to remit the sentence of one month's solitary confinement, as recommended by the Inspector General of Prisons.

The Judges of the Sudder Adawlut will be good enough to issue the necessary instructions on the subject.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—From the Session Judge's proceedings in this case it would appear that the second month's solitary confinement has been inflicted, sentence having been passed on the 26th December 1854 of four years' imprisonment and two months' solitary confinement, the first month at the close of the first year, and the second at the close of the second year.

A warrant, carrying out the resolution of Government is at once to be issued, and the Session Judge requested

to report whether the second month's solitary confinement has been inflicted.

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Return by the Session Judge.—The extract, together with the warrant, has been duly received, and, in exigence of the second paragraph of the extract, the Session Judge begs to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that the convict was undergoing the second month's solitary confinement from the 26th January 1857, and, on the receipt of this Precept, he was taken out of the cell in conformity with the term of his mitigated sentence.

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Further Letter from the Inspector General of Prisons to the Judicial Secretary to Government.—With reference to my letter No. 21, of the 7th ultimo, reporting on the good conduct of Ramsing, a convict in the Nuggur Jail, on the occasion of the attack on the Deputy Jailor by certain Chinese convicts, I have now the honour to report that another convict (Rowjee wulud Vitoo,* sentenced for gang robbery to three years' imprisonment with hard labour, on the 22nd November 1855) behaved well on the same occasion : his exertions were not so remarkable as those of Ramsing, but still very meritorious ; and I consider that he deserves the indulgent consideration of Government, and beg to recommend that a remission of six months of his sentence may be granted.

From inquiries which I made while recently at Ahmed-nuggur, I am satisfied, from the determined and murderous character of the attack, that the Deputy Jailor would have lost his life if it had not been for the aid afforded by these convicts, Ramsing and Rowjee wulud Vitoo.

As the greater portion of the sentence of solitary confinement has now been endured by Ramsing, I beg to recommend that a remission of six other months (the equivalent to one month's solitary confinement) of the sentence of hard labour be granted instead.

* See pages 345 to 350, Vol. V., for previous proceedings in this case.

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Letter from the Judicial Secretary to Government to the Registrar of the Sudder Foujdaree Adawlut.—In continuation of my letter No. 393, dated the 7th instant, I am directed to transmit copy of a further letter from the Inspector General of Prisons, and to intimate that, under the circumstances stated by Mr. Bettington, the Right. Honorable the Governor in Council has been pleased to direct that a further remission of six months' imprisonment, with hard labour, of the sentence recorded against the convict Ramsing be granted to him. His Lordship in Council is also pleased to remit six months of the sentence of imprisonment recorded against the convict Rowjee wulud Vitoo, alluded to in the Inspector General's present letter.

Resolution of the Sudder Foujdaree Adawlut.—The necessary warrants to be issued ; and, with reference to the Government Order in Ramsing's case, they may be informed that the probability that he was undergoing the second month of his imprisonment in solitary confinement did not escape the Court, and they therefore called upon the Session Judge to report, and find he was put into the solitary cell on the 26th January, but, on receipt of the new warrant on the 20th February, was taken out of it.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Sudasew Buchajee to the Sudder Foujdaree Adawlut. Referred for Report to the Session Judge of Poona, C. M. HARRISON, on the 28th January 1857.]

Copy of Pro-
ceedings refused.

Petition of Sudasew Buchajee to the Sudder Foujdaree Adawlut.—[Praying for an order to the Session Judge of Poona to grant him copies of papers.]

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to report whether there is any other reason for not grant-

ing the copies beyond that of petitioner not having shown any grounds for receiving them.

Return by the Acting Assistant Session Judge.—In execution of the within Precept, the Acting Assistant Session Judge in Charge has the honour to report, that the petitioner presented an application on the 15th December 1856, praying that a copy of the Deputy Magistrate's proceedings, held in a case in which he was charged with conspiracy, might be given to him for a 'dalka.'

His application was rejected under the Interpretation received on Clause 7th, Section XXXVIII. Regulation XIII. of 1827.

The original petition is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The Session Judge is at liberty to grant or refuse these copies as he may think fit. The petitioner gives no sufficient reason for having them, and the Court see no cause for interference.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
{ ROBERT KEAYS, }

[Cases Nos. 3 and 4 of the Criminal Return of the Magistrate of Ahmedabad for April 1856. Tried by the First Assistant Magistrate, W. A. RITCHIE, on the 31st March 1856. Reviewed by the Magistrate, J. W. HADOW, on the 9th April 1856. Proceedings submitted to the Sudder Foujdaree Adawlut by the Magistrate.]

Prisoner in Cases Nos. 3 and 4.—Wujishung Guga-
jee, Grasia, aged 30.

Charge in Case No. 3.—Under Regulation XIV. Section XLI. Clause 1st, of 1827, with having, on July 30th, 1855, (Ashad Wud. 1st, 1911,) at Dhunala, Talooka Dholka, Zillah Ahmedabad, received three and a half kutchas 'mun's' of tobacco, value Rs. 8, knowing, or having evident ground for believing it to be stolen, without informing some Public Officer; the same having

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ceedings refused.

C. G. Kemball,
Acting Assistant
Session Judge.

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been stolen from the possession of complainant, Premchund Deepchund, on the previous night.

The prisoner pleads not guilty.

Charge in Case No. 4.—Under Regulation XIV. Section XLI. Clause 1st, of 1827, with having, on or between August 7th and 25th, 1855, (Ashad Wud 10th, Shrawun Shood 9th, 1911,) at Jeejhur, Talooka Dhundooka, Zillah Ahmedabad, received four buffaloes, value Rs. 80, knowing, or having evident ground for believing them to be stolen; the same having been stolen from the possession of complainant, Moochoonamégjee and two others, during the dates in question.

The prisoner pleads not guilty.

W. A. Ritchie,
First Assistant
Magistrate.

Finding by the First Assistant Magistrate in Case No. 3.—In this case the prisoner does not deny that the stolen property was found in his house, but merely declares some enemy must have put it there. As he is unable, however, to produce any evidence in support of this, the evidence for the prosecution must be considered conclusive, although it consists of that of only one witness, the Mookhee, whom he accompanied alone, being dead. Prisoner's bad character also cannot be overlooked. He is accordingly convicted, but sentence deferred until the investigation into another charge against him is concluded.

Finding and Sentence by the First Assistant Magistrate in Case No. 4.—In this case prisoner is charged with receiving four buffaloes, knowing them to have been stolen; and of the two complainants who went in search of the animals, one distinctly names prisoner as the man who had been seized by the Jeejhur Police in possession of them, and taken to Dhundooka. His evidence is corroborated by that of Record No. 3, who, with one Runchore, accompanied the two complainants, and by that of Record No. 5, the Havildar of Jeejhur. Runchore denies that he is prisoner's kinsman. The

other complainant who went declares he did not see prisoner; but he was evidently very unwell when before the Court, and seemed scarcely to comprehend the questions put to him. Record No. 4, Mookhee of Jeejhur, declares he knows nothing of the prisoner, and Records Nos. 7 and 8, Jeeveedars who accompanied him, do the same; but complainant Kaloo states that Record No. 4 threatened him if he denounced the prisoner, and from the evidence of Record No. 6, and the contradiction manifest in the deposition of Record No. 7, there appears much reason to believe prisoner was there. He is a Grasia, and, consequently, people are not very willing to give evidence against him; moreover, he has been convicted in Case No. 49, and, as will be found therein, his character is bad.

Reference was made, on the adjournment of the case on the 2nd, to Dhundooka, for any further evidence that might be procurable; but as, with the exception of the Havildar of Jeejhur, the Mookèe and his Puggees had denied all knowledge of prisoner, this was done with very slender hopes of success. This success, therefore, being very doubtful, and the evidence above noticed being deemed sufficient, the Court proceeds to pass sentence.

Prisoner, being convicted in both these cases, and his character being bad, is sentenced to suffer one (1) year's imprisonment with hard labour, on expiry of which to furnish security to the amount of one hundred (100) rupees, commutable, in case of non-payment, to six (6) months' ordinary imprisonment, to be of good behaviour for the space of two (2) years, failing which to be imprisoned for that period.

The buffaloes and tobacco to be restored to their respective owners, on their passing the usual receipt.

The above decision is subject to the Magistrate's confirmation.

P.S.—Since writing the above, an answer from Dhun-

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dooka has been received, from which it appears no further evidence is procurable.

Confirmation by the Magistrate in Case No. 3.—The Magistrate is of opinion that there is no evidence in this case to support the conviction. It does not appear that the prisoner was present when his house was searched. The prisoner's wife is *said to have been present*, but her deposition is not recorded; she distinctly states that she was *not* present. The deposition of the Mookhee by whom the house was searched has not been taken.

The conviction in this case is annulled, and the First Assistant Magistrate will have the goodness to call upon the District Police Amuldar for his explanation in respect to the omissions above pointed out, and the negligent manner in which this case has been prepared.

Confirmation by the Magistrate in Case No. 4.—The evidence recorded in this case does not, in the opinion of the Magistrate, support the conviction, which is therefore annulled, as is also the sentence.

The prisoner is to be returned to the First Assistant Magistrate, for the adoption of precautionary measures.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to request, in conformity to Clause 1st, Section XXVII. Regulation XII. of 1827, you will have the goodness to obtain the sanction of the Judges of the Sudder Foujdaree Adawlut for the detention in jail of prisoner, named Wujishung Gungajee, for a further period of one year from the date of the completion of the term of imprisonment to which he was adjudged by the First Assistant on the 8th April 1856.

The prisoner is reported to be a man of bad character, for, having twice before been convicted of robbery and punished, again on the 31st March last he was placed on his trial on two different charges of receiving stolen property, of which he was convicted before the First Assist-

ant Magistrate, and sentenced to be imprisoned for the space of one year ; but the Magistrate, not considering the evidence sufficient to support the conviction and sentence in both these cases, annulled the conviction and sentence. The prisoner was returned to the Assistant Magistrate for the adoption of precautionary measures to secure his future good conduct.

The papers and proceedings in the prisoner's case are herewith forwarded.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not think that any reason is shown for requiring further security, and the Magistrate is to be informed that they cannot accede to his request.

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AHMEDABAD.

Receiving Stolen Property, knowing, or having evident ground for believing it to be Stolen.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 8 of the Calendar of the Khandeish Sessions Court for 1857.

Committed by the Deputy Magistrate, RAM NAID, on the 11th February 1857. Tried by the Session Judge, A. ST. JOHN RICHARDSON, on the 12th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

KHANDEISH.

Prisoner.—Hunjoo wulud Roopjee, Wursal Bheel, aged 25.

Murder.

Charge.—Murder; in having, in the afternoon of Monday, 19th January 1857, corresponding with Poush Wud 9th, Shuké 1778,) within the limits of Moondulwar, District Akranee, Subdivision Kookurmoonda, District Sooltanpoor, Province of Khandeish, deprived of life a man named Vesta wulud Pacha, Bheel, aged 28 years, by striking him in the face and temple with a stone, from the effects of which Vesta died then and there; prisoner thereby rendering himself amenable to the provisions of Clause 1st; Section XXVI. Regulation XIV. of 1827.

The prisoner pleads not guilty.

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KHANDEISH.

Murder.

A. St. John Richardson, Session Judge.

Finding and Sentence by the Sessions Court.—The Court has to observe that the evidence throughout is of the truthful character of the simple people of the tribe to whom the prisoner and deceased belong. The facts appear to be, as shown from the statements of all the witnesses, that deceased and the prisoner (Hunjoo) were continually quarrelling, and having met alone in the hill-side on 19th January last, each threw a stone at the other, of which a heavy stone, marked in two places with blood and human hair, thrown by the prisoner (Hunjoo) took fatal effect on the deceased (Vesta), whose death is sufficiently proved by the evidence of witness No. 2 and the report No. 4, affirmed by his evidence and that of the witness No. 3 (Girdhur wulud Joogalal), who appears ignorant that the chief and only object of the Inquest is to ascertain whose body was the object of investigation, and whether death had ensued from violence or from natural causes. The fact, however, is abundantly proved by the evidence of the witnesses 'who burnt the deceased;' and there being no eye-witness to the meeting of these unhappy men, the Court is of opinion that prisoner (Hunjoo wulud Roopjee) is convicted on his own confession of murder; in having, in the afternoon of Monday, 19th January 1857, (corresponding with Poush Wud 9th, Shuké 1778,) within the limits of Moondulwar, District Akranee, Subdivision Kookurmoonda, District Sooltanpoor, Province of Khandeish, deprived of life a man named Vesta wulud Pacha, Bheel, aged 28 years, by striking him in the face and temple with a stone, from the effects of which Vesta died then and there; and, in consideration of the appearance of a scar of a recent wound on the prisoner's right breast, is disposed to admit his statement to be worthy of belief in all particulars, and, therefore, to believe that deceased did throw a stone at the prisoner; but in the absence of any evidence to show "justifiable cause," and unwilling to

allow that the slight scar is sufficient evidence to believe that no other means of resistance to violence was in the power of the prisoner, the Court is, by the law of the land, compelled to pass the sentence against the murderer, so far mitigated as the enactment under which the prisoner is arraigned will admit of, as follows:—

You, Hunjoo wulud Roopjee, having been this day convicted, on your own confession and the evidence this day recorded, of murder, be transported beyond theseas for the term of your natural life, agreeably to the provisions of Regulation XIV. of 1827, Section XXVI. Clause 4th.

The above sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—The only evidence against the prisoner in this case is his own confession, and as that must be taken with all extenuating circumstances, the only offence that I can find proved by the confession is culpable homicide ; for prisoner does not say, as in the Session Judge's proceedings, " I resolved to kill him," but, after deceased had struck him with a stone, as he was always quarrelling with him, it came into his mind to kill him ; and I would therefore sentence him to five years' imprisonment, with hard labour.

In this case the Session Judge should have ascertained from Magta that he pointed out the corpse of Vesta to Vitoo wulud Chima, who sat as one of the Inquest upon it, as without some such connecting link the proof is left incomplete, neither Vitoo nor Girdhur being able to show that the Inquest Report recorded in the case was made upon a view of Vesta's corpse. The prisoner pleading guilty to the fact of killing, and there being no other evidence in this case, the way in which the witnesses have been examined is not of much importance ; but I wish the Session Judge had conducted the examination more as the Deputy Magistrate did it.

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Murder.

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Puisne Judge.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
ROBERT KEAYS, }

POONA.

[Case No. 18 of the Criminal Return of the Magistrate of Poona for December 1856. Tried by the Deputy Magistrate, NANA MOROJEE, on the 26th December 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Appropriation of another's Pro- perty by Breach of Trust.

Prisoner.—Narayen bin Anajee, Salee, aged 51.

Charge.—Appropriation of another's property by breach of trust (Regulation XIV. of 1827, Section XL.) ; in that you fraudulently appropriated divers ornaments, consisting of pearls, gold, and silver, all worth upwards of Rs. 774, which you had entrusted to you about six years ago, in the City of Poona, by your sister, the complainant, Kashee kom Ladojee, by misleading her into a belief that her husband, with whom she had fallen out, was about to have them attached by a process of a Court.

The prisoner pleads not guilty.

Nana Morojee,
Deputy Magistrate.

Finding and Sentence by the Deputy Magistrate, confirmed by the Magistrate.—The fact of the prisoner (Narayên) having been entrusted about six years ago by the complainant (Kashee) with ornaments as per memorandum No. 2 has not been disputed; on the contrary, the prisoner himself fully admits that after leaving her husband's house the complainant put up with him and gave over all her personal ornaments in his charge. This admission is most satisfactorily corroborated by the circumstance of most of the ornaments being directly or indirectly traced to the prisoner. There can be no doubt, then, that the ornaments were entrusted by the complainant to the prisoner.

The evidence of Mahadajee and Sujajee, and the prisoner's own statement, show that he mortgaged a

good many of the ornaments to several Sowkars. The prisoner urges on this point, however, that it was at the complainant's own request and for her benefit that he mortgaged them. The only direct witnesses to this transaction are Mahadajee (witness No. 3), Sujajee (witness No. 4), and Gianoo (witness No. 5). The last-named person is the prisoner's brother, and is evidently disposed to favour him at the expense of the complainant, inasmuch as his evidence clashes with that of the other two witnesses (Nos. 3 and 4), whose testimony and that of Krishna Marwaree (witness No. 8) completely disprove the allegation of the prisoner that the ornaments were pawned at her request and for her benefit.

The Deputy Foudjar's statement (No. 6) plainly indicates that prisoner has been far from honest in the matter of the ornaments in question.

In his statement given at the Police Office, the prisoner says he has no more evidence to adduce, and yet he produced four more witnesses before the Deputy Magistrate. Their evidence, even if it be implicitly relied upon, is not at all calculated to affect the strength of the prosecution. Further the statement of some of them, *e. g.* Marootee (witness No. 12), shows that the prisoner insisted upon the complainant producing a receipt signed by her husband (Ladojee, witness No. 9) for the whole of the ornaments before he restored them. This is just another way of stoutly refusing to return them to her; for, viewing the relation in which complainant stands with her husband, it is quite impossible that she would ever be able to furnish a receipt from him; nor has the prisoner any right whatever to make such a preposterous demand of her.

After a deliberate consideration of the evidence adduced *pro* and *con.* in this case, the Deputy Magistrate concludes that the following appear to be the facts of this case, viz.:—one Ladojee (witness No. 9) having got

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married with a second wife, his first wife (the complainant) gave up, about six years ago, living with him, with such ornaments as she had in her possession, and lived for about a month with her brother the prisoner. During this stay she entrusted all the ornaments, worth upwards of Rs. 774, to the prisoner. Subsequently she sued her husband in the Civil Court for subsistence allowance, and obtained a decree. He, in his turn, had her tried for a petty theft, for which she was punished. They have for these six years lived separate. Meanwhile the prisoner pawned a good many of the ornaments without complainant's knowledge, and now that she wishes to have her ornaments back, the prisoner insists upon, 1st, her paying a large sum, and, 2ndly, her producing a receipt for the whole of the ornaments signed by her husband. He cannot more effectually withhold the complainant's ornaments, and this step on his part is evidently a most cowardly and dishonest act. Under this view the Deputy Magistrate convicts him of appropriation of another's property by breach of trust, and sentences him to imprisonment with hard labour for six months. Subject to confirmation by the Magistrate. (Regulation IV. of 1830, Section III.)

R. Keays, Puisne
Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Keays.—It seems proved that the complainant entrusted the ornaments to her brother (the prisoner) to take care of for her. It is also proved that the prisoner pawned and received the money for a great many of these ornaments to different Sowkars. He asserts he did this with the complainant's assent, but this is, I think, disproved by the evidence of witnesses Nos. 3 and 4.

Under all the circumstances I consider the conviction sound, and can see no reason to interfere. I would reject the appeal.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 2 of the Calendar of the Rewa Kanta Court of Criminal Justice for 1856. Tried by the Political Agent, R. WALLACE, on the 12th and 13th May 1856.]

REWA KANTA.

Prisoners.—No 1, Mahiputrao Trimbeck Duxnee, Brahmin, aged 28.
 2, Bapoojee Bechur, Banian, aged 25.
 3, Toolseedas Haribhai, Léva Koonbee, aged 40.

Forgery.

Charge.—For having, between Thursday 26th May 1853 (Wuishak Wud 4th, 1909) and Wednesday 19th September 1855, (Bhadrapud Shood 8th, 1911,) in the village of Daukore, committed forgery, by altering the public records of the Police Zemindar of Daukore for the year 1853, by removing a sheet with the record thereon from the Inward Register Book for the said year, and substituting another sheet, on which, under No. 149, was registered a fictitious document, with the intent of applying the same to a fraudulent purpose. (Regulation XIV. of 1827, Section XVII. Clause 1st.)

For having, between the abovementioned dates, place unknown, combined together and with Ambalal Shumibooram, an inhabitant of Ahmedabad, to obstruct, pervert, and defeat the course of public justice, by forging the abovementioned fictitious document (registered No. 149), knowing that the same was to be used for such illegal purpose. (Regulation XVII. of 1828, Section I.)

The prisoners plead not guilty.

Finding and Sentence by the Court of Criminal Justice.—The case now before you is one in which the examination of records, the comparing of different handwriting, the alteration, absence, and erasure of dates, the appearance of entries, and such like ocular demonstration forms so large a part, that I shall not attempt

R. Wallace, Political Agent.

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to follow the prosecutor through all this description of evidence ; to do so would rather obscure the case. I shall therefore confine myself to the comparison of the evidence of the witnesses, and of the statements of the prisoners, alluding only to those salient points of the documentary evidence which cannot be avoided.

It has been proved, then, that on the trial of Runchor Chotalal in April 1855, the certified copy of a petition, with endorsement attached, was produced for the defence, and materially contributed to establish the fact of the wife of Runchor having been at Daukore on the 26th May 1853. The petition was asserted by Ambalal Shumbooram, the family priest of Runchor, to have been presented by him on the above date to the Police Zemindar of Daukore, and this assertion seemed to be borne out by the two endorsements at the foot of it. The original petition is now before you, and it presents the following appearance :—the body of the petition, it is admitted, is in the handwriting of Ambalal, but the English as well as the Native date (26th May 1853, Wuishak Wud 4th) is not so, but by another hand ; the petition is on one slip of paper, and there is a blank space of $2\frac{1}{4}$ inches at the foot of it, but the endorsements are both on another slip of paper ; they are written by the prisoner Mahiputrao, and signed by the Police Zemindar ; the first endorsement was originally dated by Mahiputrao *the 27th May*, but has been altered (as he says by some one else) into 26th May ; the date of the second endorsement, “ same date ” (‘tareek muskoor’), is also by a different hand. The Police Zemindar affirms that neither the petition nor the endorsements are genuine, and that his signature has been obtained by fraud ; and by taking advantage of an oversight in signing papers. The prisoner Mahiputrao says, on the contrary, both are genuine, and that the prisoner Toolseedas, and *not he*, got the Police Zemindar’s signature. The

prisoner Toolseedas, however, denies this: he says "I know nothing of the petitioner; I never saw the petition; I know nothing of its entry into the Police records; I did not get it signed." The prisoner Bapoojee also denies all knowledge of the petition and the petitioner. The witnesses Nos. 2 and 4, who were Karkoons in the Office, the former *positively* and the latter *negatively*, deny all knowledge of it. It is quite possible that the petition may have been written at one time and place and the endorsements at another, and that they were joined afterwards; the alteration of dates and the blank space at the foot of the petition almost invite such a suspicion. From internal evidence other suspicions arise: the petitioner represents his case as one requiring instant attention, lest the party whom he complains of (a stranger in Dankore like himself) should abscond, and the witnesses also; and yet he writes a petition, which it seems he could hardly have written under thirty or forty minutes, and renders it unnecessarily long by introducing irrelevant details, which were only useful to Runchor Chotalal on his trial. I may add here, that Ambalal Shumbooram has disappeared since January last; neither by Mr. Ashburner who conducted the preliminary inquiry, nor in reply to two applications from this Office, can he be found.

The next point it is necessary to preface by an explanation. The Political Office at Dankore has two Register Books; an Inward and an Outward, for the entry of current Police business. These books for the year 1853 are before the Court. The Inward Book is principally kept by two Karkoons (witnesses Nos. 2 and 4), and the custom is for them to enter all papers given them for that purpose, and at the same time to docket the papers in question with the date and No. of Registry. All the Inward papers in the Office for the months of May and June 1853 have been pro-

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duced, and this general rule is apparent from them ; but in three instances it has been broken, and the docket on these three is in the handwriting of the prisoner Mahiputrao ; one of these is the petition under consideration. Turning to the Inward Register Book, you see that this petition is registered under date 26th May 1853, No. 149, but you see also that, whereas the writing immediately preceding and following the leaf in question is that of witness No. 2 and witness No. 4 respectively; this leaf and the corresponding leaf (one sheet in fact) is another person's handwriting. There is therefore, from the appearance of it, every suspicion that the book has been tampered with. This suspicion is confirmed by witness No. 3, who says he wrote the sheet about ten or eleven months ago, by the orders of prisoner Toolseedas and at the dictation of prisoner Bapoojee. Now witness No. 2 says he observed this alteration of the book in January 1855 ; but the difference between the parties is not very material, as the alteration itself is apparent, and, whether it was done in May or January 1855, it is equally a tampering for some fraudulent purpose. Witness No. 3, however, does not know what was written in the original sheet which Bapoojee had in his hand while he dictated to him the contents of the new sheet. Witness No. 2, however, declares that he remembers, that under date the 26th or 27th May there were originally a letter from Kupurwunj and a letter from Pitlaud ; the former is still there under No. 150, but the latter is not. Turning to the Outward Register Book, you see, under date 4th June, the answer to a letter from the Wywutdar of Pitlaud ; this letter is produced from the Police Zemindar's records ; it is docketed by the prisoner Mahiputrao (being the second of the three letters docketed by him) merely as received on the 27th May 1853. There is no docket of No. and date of Registry in the Inward Book, which seems to refute the

assertion of witness No. 2, but it is proved by witness No. 5, the head Karkoon of Pitlaud, whose evidence is given with unusual clearness and decision, that this letter thus docketed by the prisoner Mahiputrao is a forgery. That such a letter *was* sent at that particular date, and an answer to it received, is admitted ; but the letter before you was not written by any Karkoon in the Pitlaud Kutcheree, and the signature of the First Karkoon (witness No. 5) has been unsuccessfully imitated. This destroys the inference that the original letter was *not* entered in the Inward Register as witness No 2 declares it was, and leaves his assertion not only uncontradicted but supported by the obviously fraudulent means adopted to conceal the fact. I now turn to the Outward Register Book, where the answer to this Pitlaud letter is registered, and where other suspicious circumstances await your attention. In this book is a column for the date and No. of letters entered in the Inward Book to which replies have been sent. All the entries in this column are by the prisoner Bapoojee ; they are not complete, many being omitted in all parts of the book. Opposite the answer to the Pitlaud letter is noted, *not* the date and number of Registry of that letter in the Inward Book, but these words, "This is a Revenue business"—this being evidently the intended explanation why a letter, the answer to which is entered in the Outward Police, is not to be found in the Inward Police Book, viz. that it was Revenue and not a Police matter. Looking at the letter from Pitlaud it may be called a Revenue business, as it was to call a person to prove his right to an Inam in Pitlaud, but to the Police Zemindar of Daukora it was no more Revenue than Police, and it might be entered in either of his records ; but it seems there are no Inward and Outward Revenue Registers kept by him. Had there been no forgery of the Pitlaud letter, and had not witness No. 2 stated his remembrance of such a letter in the Inward

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Register Book, the prisoner Bapoojee's note might have passed unchallenged; as it is, a closer scrutiny is necessary. The Outward Register Book consists of four separate parts, and several hands are apparent in it (witnesses Nos. 2 and 4 and others). The separate part in which the answer to the Pitlaud letter is entered is all through written by Mahiputrao. He says he wrote this section at least six months after date; that he copied it from an Outward Letter Book which ceased to be kept on the 12th June 1853; and that he did so to bring up the Register Book, which was in arrears. Witness No. 2 denies that the book was in arrears; parts of it *anterior* to what Mahiputrao wrote were written by him, not from any other book but from the letters themselves; and witness No. 4, who wrote parts of the book *subsequent* to Mahiputrao's section, says the same; and both join in saying that the book was not and *could not be* in arrears, because the letters were not despatched till they had been registered. This is strong evidence against the correctness of Mahiputrao's assertion. You will weigh it in your mind, and decide whether you believe Mahiputrao's transcript of this part of the book a *bonâ fide* or a fraudulent one. The prisoner Bapoojee says he wrote the note "This is on Revenue business" without looking at the Revenue record; that he did so at either Toolseedas' or Mahiputrao's suggestion, and because he did not find it in the Inward Register; he says also, that he did *his* portion of the work of this book in January or February 1854. Your view of this part of the statement will depend materially on the decision you come to on Mahiputrao's share in it. The freshness of the paper on which Mahiputrao's section is written, and other points connected with the mode and appearance of the several entries, I shall not dilate upon; they are none of them in themselves important.

I now proceed to point out in what manner and

to what extent the evidence implicates each of the prisoners.

Mahiputrao is directly charged by witness No. 1 (the Police Amuldar) with having confessed before him that he knew that a fraud had been committed in this matter. The Police Zemindar says—"Mahiputrao first confessed to me that a fraud had taken place at Daukore just before I gave my deposition to Mr. Ashburner." He asserts, and is the only one who asserts, that the petition is genuine. If you come to the conclusion that it was *not* genuine, you must convict him of being the most active person in the transaction; he wrote the endorsements; he docketed the three papers which are immediately connected with the petition in the records, and one of these papers is clearly a forgery.

Bapoojee is directly implicated by Jugjeewun (witness No. 3) as the principal person concerned in tampering with the Inward Register Book. He also noted in the Outward Register Book the circumstance of the Pitlaud letter being a Revenue paper, and ignored the fact of its being entered on the leaf of the Inward Register Book, which he caused to be re-written by Jugjeewun (witness No. 3).

Toolseedas is directly implicated by Jugjeewun in tampering with the Inward Register Book. He is the principal Karkoon of the Police Zemindar. If fraud there has been in this matter, it is difficult to believe it could have been perpetrated without his connivance. The letter to the Magistrate of Kaira, forwarding an attested copy of the petition and endorsements, is in his handwriting.

Only one of the prisoners has called any witnesses, viz. Bapoojee. His object in doing so seems to be to show that he was subject to some severity during the preliminary inquiry; but as his previous deposition has not been recorded in evidence, I hardly see the value of this evidence.

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Bapoojee, as well as the other prisoners, has declined to make any defence, reserving it, as they say, for some future occasion and some other tribunal. I have pointed out to them the inconvenience they are likely to subject themselves to by such a course, and there my duty ends.

The Assessors are, then, requested to consider and deliver their respective verdicts. After some discussion and deliberation they individually state their opinions, which coincide in a verdict of guilty on both counts against all the prisoners. This verdict being recorded, the question of punishment is referred to them. On this point they desire to remark that it is clear to them that the prime movers of this matter are not before the Court; the persons for whose advantage this fraud has been perpetrated will therefore escape, and the punishment will fall on the subordinate instruments; and therefore suggest a few months' imprisonment.

The Political Agent admits that these appear to be only tools; but he reminds the Assessors that, by refusing to give up the names of their employers, they have deliberately taken the consequences on themselves, and made themselves principals in the matter. The forging and fraudulently tampering with public records is an offence of so dangerous and radical a character, that it must be suitably visited. The Political Agent points out that the offence charged in the first charge is punishable by the Regulations with five years' imprisonment, besides fine, &c.; and the second charge is punishable with ten years' imprisonment, besides fine, &c. After some further discussion, the sentence of the Court, with the adhesion of the Assessors, is recorded, that the three prisoners (Mahiputrao Trimbuk, Bapoojee Bechurdas, and Toolseedas Haribhai) are to undergo imprisonment for (5) five years, and to be kept to hard labour during the whole of that period.

The Court is then re-opened; the prisoners replaced at the bar, and the verdict and sentence promulgated.

The Court is then closed.

Petition of Mahiputrao Trimbuk and two others to the Sudder Foujdaree Adawlut.—[Appealing from the decision, on the ground that they are British subjects; that the offence they are accused of having committed is said to have been committed at Daukore, a place subject to the Regulations; and that they were illegally made over by the Magistrate of Kaira to the Political Agent in the Rewa Kanta, who had no authority to try them.]

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to certify copies of the warrants.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Assistant Session Judge.—Copies of the warrants of the withinnamed prisoners are herewith certified to the Court of Sudder Foujdaree Adawlut, as directed in the extract that accompanied this Precept.

Letter from the Secretary to Government to the Political Agent in the Rewa Kanta.—I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter No. 353, dated the 24th November last, with enclosures, and to enclose, for your information and guidance, copy of a Resolution passed by Government under date the 14th instant, in the case of Runchor Chotalal and others.

Major Jopp, the Superintendent of Police, Kaira, has been addressed in the terms of the concluding paragraph of the Resolution.

* * * * *

Resolution by the Honorable Board, dated the 14th January 1856.—The circumstances so clearly stated in the present letter, and in the 54th and following paragraphs of Major Wallace's report of the 22nd of September, lead

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to the conviction that a very gross fraud has been practised with reference to the asserted *alibi*. To prove the *alibi*, not only perjury but forgery (tampering with a public record) has been employed. Such proceedings should, as Major Wallace very properly remarks, be thoroughly probed. Daukore, the village in which the asserted transaction of the complaint to the Police occurred, is under the Regulations ; but it is clear that wherever the false evidence was prepared, it was used in the Rewa Kanta, viz. at the trial before the Commissioner, Mr. Hebbert. The Right Honorable the Governor in Council is therefore of opinion, that all the parties concerned, including Runchor and his wife Jeteebaye, should be brought to trial before the Political Agent's Court in the Rewa Kanta, on a charge of conspiring to obstruct, pervert, and defeat the course of public justice.

Major Jopp, Superintendent of Police, Kaira, may be directed to place himself under the orders of Major Wallace, for the purpose of collecting evidence from Daukore, Ahmedabad, and elsewhere.

Return by the Magistrate.—In returning the Precept duly executed, the Magistrate of Kaira begs to state, that it appears the petitioners appeal against the legality of their trial before the Political Agent in the Rewa Kanta, and, with reference to this point, has the honour to state that these petitioners were tried before Major Wallace, the Political Agent, in accordance with the Government Resolution of the 14th January 1856, copy of which is herewith transmitted ; and from a letter, No. 408, of the 18th instant, from the Acting Political Agent in the Rewa Kanta, it appears that these petitioners appealed to Government, through the Session Judge of Ahmedabad, against the legality of the trial, which appeal was rejected by Government, under date the 8th ultimo, No. 4628.

The petition is herewith returned.

• *Letter from the Registrar of the Sudder Foujdaree Adawlut to the Judicial Secretary to Government.*—I am directed by the Judges of the Sudder Foujdaree Adawlut to forward, for the purpose of being laid before the Right Honorable the Governor in Council, copy of a petition from the Political convicts Mahiputrao, Toolseedas, and Bapoojee, confined in the Ahmedabad Jail, with a request that, as there appear to be grounds for believing that the prisoners are not in legal custody, Government will favour the Court with the proceedings held in the case, and the case out of which it arose.

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Reply from the Secretary to Government to the Registrar of the Sudder Foujdaree Adawlut.—I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter No. 2717, dated 12th instant, and, in accordance with the request therein contained, to transmit herewith, for submission to the Judges of the Sudder Foujdaree Adawlut, a copy of the proceedings of the Court of Criminal Justice for the Rewa Kanta in Case No. 2 of the Calendar for 1856, on the trial of the three prisoners Mahiputrao, Toolseedas, and Bapoojee, for forgery and conspiracy.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Political Secretary to Government.—In acknowledging the receipt of your letter No. 6005, dated 31st ultimo, and copy of the proceedings of the Court of Criminal Justice for the Rewa Kanta, in the case of Mahiputrao Trimbuk and others, I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to request that you will also favour the Court with the proceedings in the case out of which that case arose, and which was that of Runchor Chotalal, tried by Mr. Hebbert as Special Commissioner.

Reply from the Secretary to Government in the Political Department to the Registrar of the Sudder Foujdaree Adawlut.—I am directed by the Right Honorable

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the Governor in Council to acknowledge the receipt of your letter No. 36, dated the 9th instant, and, in accordance with the request therein contained, to transmit to you, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, the proceedings held between the 23rd March and the 14th April 1855 by Mr. Henry Hebbert, as Special Commissioner, on the trial of Runchor Chotalal, late Dufturdar of the Rewa Kanta Political Agency, on a charge of bribery preferred against him by Major Wallace, the Political Agent, together with a letter from that Officer, No. 272, dated the 22nd September following, submitting his remarks on the trial in question.

The Right Honorable the Governor in Council requests that you will return the enclosures, when no longer required by the Judges.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary to Government in the Political Department.—With reference to my letter No. 2717, dated 12th December last, and your letters dated 31st December, No. 6005, and the 27th ultimo, No. 387, I am directed by the Judges of the Sudder Foujdaree Adawlut to state, for the information of the Right Honorable the Governor in Council, that it appears to the Court that, in the month of March 1855, Runchor Chotalal was tried before Mr. Hebbert, as Special Commissioner, at Pownghur, in foreign territory, on a charge of bribery preferred against him by Major Wallace, the Political Agent in the Rewa Kanta. The bribe was said to have been paid at Ahmedabad to Runchor's wife, Jete. For the defence, copy of a petition which Ambalal Shumbooram had presented to the Police Officer at Dankore was filed by Runchor, to prove that, at the time in question, his wife had accompanied Ambalal to Dankore, and, consequently, that she could not have been at Ahmedabad on the date when she was said to have

received the bribe. The Commissioner considered that this established the *alibi*, and Ranchor Chotalal was acquitted.

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Major Wallace, in his report to Government on the trial in September 1855, mentioned his suspicions that the *alibi* had been fabricated; and after further correspondence it appears that Government, on the 14th January 1856, found good reason to suspect that, to prove the *alibi*, not only perjury but forgery (tampering with a public record) had been employed; and as, wherever the false evidence was prepared, it was used in the Rewa Kanta, viz. at the trial before the Commissioner, Mr. Hebbert, Government directed that all parties concerned, including Ranchor and his wife Jetee, should be tried before the Political Agent in the Rewa Kanta on a charge of conspiring to obstruct, pervert, and defeat the course of public justice.

Upon that it appears, from the Return of the Magistrate of Kaira to the Court's Precept of the 6th November last, No. 1025, that the petitioners, Mahiputrao Trimbuk, Toolseedas Haribhai, and Bapoo Bechur, were tried before Major Wallace, and sentenced to five years' imprisonment, with hard labour, in the Jail at Ahmedabad, and to furnish security for future good conduct.

The convicts have appealed from this sentence, on the ground that they are British subjects; that the offence they are accused of having committed is said to have been committed at Daukore, a place subject to the Regulations; and that they were illegally made over by the Magistrate of Kaira to the Political Agent in the Rewa Kanta, who had no authority to try them.

The prisoners are stated in their warrants to be Mahiputrao, an inhabitant of Daukore; Toolseedas, of Oomrut; and Bapoo, of Neriad, all places under the Regulations; and that they were tried for having, with others, com-

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mitted forgery at Dankore, and conspiracy in some place unknown ; and under Section III. Act V. of 1847, which empowers Session Judges to give effect to the warrants from the Political Agent in the Rewa Kanta, the Session Judge can, if he doubts the legality of the warrant, or competency of the person issuing it, refer the matter to Government. A petition was presented by the prisoners to Mr. Warden, the Session Judge at Ahmedabad, but he saw no reason to interfere, and the petition was forwarded to the Court of Sudder Foujdaree Adawlut, to whom an appeal would lie from the Session Judge's order.

Government have, at the request of the Court, furnished a copy of the proceedings on the petitioners' trial and Mr. Hebbert's proceedings on the trial of Runchor, out of which this arose. From this it appears that Ambalal Shumbooram, a native of Ahmedabad, produced the copy of the petition, and that the prisoners were never examined as witnesses, nor do they seem ever to have been at Pownghur during the trial. The Commissioner, Mr. Hebbert, it must be remarked, fully believed Ambalal's evidence, and, though he makes no remark upon the petition, he considered the *alibi* proved.

It does not appear that Runchor and his wife Jetee, though it was ordered by Government, were tried ; and the charge against the petitioners is having committed forgery at Dankore, in having tampered with the Register Book, and with conspiracy, in some place unknown, in having conspired with Ambalal to pervert and defeat justice by forging the petition, knowing it was to be used for an illegal purpose.

The Court do not find it insisted upon, either in the prosecutor's opening or in Major Wallace's summing up, that there is any proof of conspiracy with Ambalal. All that they either of them dwell upon is the several parts which the prisoners took in the business, and all

that which is confined to tampering with the records must have occurred at Daukore.

These prisoners then, being British subjects, and the only offence that they are shown to have committed having been committed within the British territories, the question is, whether they are subject to foreign jurisdiction because the false evidence which they prepared was used in a foreign territory.

The law (Section I. Regulation XI. A. D. 1827) is, that all persons within the Zillahs subordinate to Bombay are subject to the Regulations on criminal judicature; and Act I. of 1849 provides that subjects of the British Government are amenable to the law for offences committed by them within the territory of any foreign Prince; and Section V. provides that, in the event of the offence being committed within the territory of a foreign Prince administered by Officers under the authority of the East India Company, in which a Court competent to try the person is established, the Government may order him to be delivered up for trial before that Court. It is therefore very clear that Ambalal might have been made over to the Court in the Rewa Kanta for trial if Pownghur is in the Rewa Kanta; or, had these prisoners been shown to have conspired in any place within the Rewa Kanta, they might have been tried for the conspiracy there; but for the forgery and tampering with the Books, which they are accused of having done at Daukore, they could only be tried within the British jurisdiction, where, too, they might also have been tried for any offence committed in the Rewa Kanta.

The Court, therefore, desire me to inform Government, that the doubts they entertained, from an inspection of the warrants, of the legality of these sentences, are confirmed by a perusal of the case; and they would suggest to Government that the Session Judge be directed to discharge the prisoners from custody, and that the Duftur-

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dar of the Rewa Kanta, who prosecuted them before the Political Agent, should be directed to prosecute them before the Magistrate of Kaira and Session Judge of Ahmedabad.

The original papers and proceedings are herewith returned.

Resolution by the Honorable Board.—The Government in this case ordered the trial of certain persons, some resident in Regulation and others in non-Regulation Provinces, before the Court of the Political Agent in the Rewa Kanta, on a charge of conspiracy to obstruct and defeat the course of justice. A paper was fraudulently altered in Daukore, in the Regulation jurisdiction, and uttered in a non-Regulation District. The Political Agent, Major Wallace, on receiving the instructions of Government, and considering the proofs adducible against the parties, was of opinion that there was not sufficient evidence against Runchor and his wife, the residents in non-Regulation Districts, and did not, therefore, place them on their trial. But the difficulty suggested by this course was that these parties, or rather the principal party, Runchor, was the utterer of the forged document; the parties actually tried were those concerned in the preparation of the forged paper, and that act occurred in Regulation territory, and its perpetrators were inhabitants of Regulation territory. It would have been better if Major Wallace, when he considered the evidence insufficient against Runchor, had referred to Government before placing the other parties on their trial. As the case stands now, there is certainly a technical difficulty; and although the Right Honorable the Governor in Council is not convinced that the course pursued might not be justified, he prefers to adopt the suggestion of the Judges of the Sudder Adawlut, and to direct the release of the prisoners, and their renewed prosecution before the Magis-

trate of Kaira. The Dufturdar of the Rewa Kanta Agency may therefore be instructed, through the Political Agent, to conduct the prosecution before the Magistrate; but this prosecution should not be undertaken until the charges preferred by Runchor against various parties, of conspiracy in getting up the charge of forgery, have been disposed of by the Magistrate.

Letter from the Secretary to Government in the Political Department to the Registrar of the Sudder Foujdaree Adawlut.—I am directed by the Right Honorable the Governor in Council to acknowledge the receipt of your letter No. 375, dated the 23rd February last, relative to the case of Mahiputrao Trimbuk and the two individuals, Bapoo Bechur and Toolseedas Haribhai, and, in reply, to transmit to you, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, copy of a Resolution thereon passed by Government under date the 6th instant.

Copies of the Resolution have been furnished to the Session Judge at Ahmedabad, the Magistrate of Kaira, and the Acting Political Agent in the Rewa Kanta, for their information and guidance.

Resolution of the Sudder Foujdaree Adawlut.—The petitioners are to be informed that the Court have laid their petition before Government, and an order has been received for their discharge; that, however, they will have to undergo their trial before the constituted Authorities of the Ahmedabad Zillah.

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Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

[Case No. 26 of the Criminal Return of the Magistrate of Kaira for February 1856. Tried by the District Deputy Magistrate, ROWJEE KRISHNA, on the 23rd February 1856. Confirmed by the Magistrate, J. R. MORGAN, on the 29th February 1856. Referred for Report to the Magistrate, on the 19th November 1856, on the petition of the prisoners Hureebhaee Bapoojee, and another.]

Neglect of Duty. *Prisoners.*—No. 1, Hureebhaee Bapoojee, Patirdar, aged 30 ; and six others.

Charge.—Neglect of duty, in having failed to trace the perpetrators of a robbery of property valued at Rs. 875-2-6, or to endeavour to recover the stolen property, or produce the thieves, and also neglecting to adopt proper measures to prevent the occurrence of the same.

Rowjee Krishna,
District Deputy
Magistrate.

J. R. Morgan,
Magistrate. ●

Conviction and Sentence by the District Deputy Magistrate, confirmed by the Magistrate.—Convicted, and, under Section XXXVII. Regulation XII. of 1827, a fine of five hundred (500) rupees ordered to be levied from the Patirdars and Dhoralas, or armed classes of this village, for the benefit of the aggrieved party. Subject to the Magistrate's confirmation.

Petition of Hureebhaee Bapoojee and another to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate, imposing a fine on them, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report, particularly with regard to the statement that the Tulatee, when employed at other stations, has brought similar charges against other people of having his house broken into and robbed.

Return by the Magistrate to the Precept.—In returning this Precept duly executed, the Magistrate

of Kaira has the honour to report, with reference to the extract from the proceedings of the Court of Sudder Foujdaree Adawlut of the 19th ultimo, that on calling for one of the petitioners, by name Jee-wabhaee Wulundas (the other having proceeded to Bombay), to state on what grounds he asserted that the person by name Mooljee Nagurdas had brought similar charges of robbery and obtained compensation from the villages in which he was Tulatee, he stated that he had been informed so by the Mookhees or Police Patels of the villages of Chucklasee and Samurkha. These persons, on being called, deny that they informed the above-named to the effect represented, or that the Tulatee ever obtained compensation on account of any robbery during the time he was employed as Tulatee in their villages.

From reports of the Mamlutdars of Neriad and Matur, in which Talookas the Tulatee has been employed at different times, it appears that he never obtained compensation for robbery: it however appears that in the year 1841 a charge of robbery was made against certain persons by the Tulatee Mooljee Nagurdas, but which was not proved, and the prisoners were discharged.

Further Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate's report is confined to a particular statement in the petition. His report on the allegations contained in it generally was required, and he is now to be requested to supply the omission, and certify the papers and proceedings.

The Magistrate states that the petitioner never obtained compensation for robbery. It is not asserted in the petition referred for report that he had received compensation.

Further Return by the Magistrate to the Precept.—In returning this Precept duly executed, the Magistrate of Kaira, with reference to the extract from the Court's

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proceedings of the 8th January, begs to refer the Court to the former extract, dated the 19th November last, in which the Magistrate is requested to report particularly with regard to the statement "that the Tulatee, when employed at other stations, had brought similar charges against other people, of having his house broken into and robbed," and on this made his report dated the 5th of December last, with reference only to this part of the petition.

The Magistrate regrets to observe, on again perusing this report, that by inadvertence he has referred to the *petitioner* instead of the "Tulatee" in the 2nd paragraph, and therefore begs to transmit an amended report.

The papers and proceedings in the case of neglect against the villagers of Arera, Purgunna Neriad, in not having made proper arrangements to prevent robbery in their village, and in not having produced the perpetrators of a robbery which was decided by the late District Deputy Magistrate on the 23rd February 1856, and confirmed by the Magistrate on the 29th idem, are herewith transmitted.

With reference to the petition of Hureebhaee Bapoojee and Jeevabhaee Wulubdas, that accompanied the Precept of the 19th November last from the Sudder Court, and regarding which the Magistrate's further report is now requested, it appears that the assertion of the petitioners, that information of the robbery was not given till late on the day is not borne out by the evidence recorded in the case.

It will be perceived from a 'kuboolayut,' recorded No. 3, entered into by the two petitioners and others belonging to this village of Arera on the 16th November 1855, that they agreed to produce the perpetrators of the robbery within fifteen days; and, failing to do so, they of their own accord became answerable for the value of the property stolen; and on their failing to produce the

robbers, or grant compensation to the Tulatee on account of his robbery in their village, a notice was served upon the villagers calling upon them to defend themselves from the charge.

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On the evidence being recorded it does not appear that the petitioners made any representations such as the present, but acknowledge the kuboolayut given by them, by which they became answerable for the loss sustained by the Tulatee, Mooljee Nagur.

The assertion of the petitioners that the Tulatee, Mooljee Nagur, had obtained compensation for robberies in other villages appears to be false.

In conclusion, the Magistrate begs to observe that the decision come to in this case is in accordance with the agreement entered into by the villagers and the custom of the country, and is of opinion that the award made against the village generally is in accordance with the spirit of Section XXXVII. Regulation XII. of 1827.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—Under all the circumstances I would not interfere.

W. H. Harrison,
Puisne Judge.

Minute by Mr. Keays.—I think the order is in accordance with the custom of the country, and borne out by Section XXXVII. of Regulation XII. of 1827, but I am doubtful about the amount awarded. The Tulatee says he lost 850 rupees' worth; the petitioners question this assertion, and state that he has exaggerated his losses. The petitioners' plea appears to me to be fully borne out by the evidence, for, out of the four witnesses examined, only one pretends to know anything of the value of the property lost, and he says it was worth Rs. 375. As the award of Rs. 500 is evidently therefore unjust, I would annul the order, or at all events modify it.

R. Keays, Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

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W. E. Frere,
Puisne Judge.

Minute by Mr. Frere.—The question referred to me is to what amount of compensation is Mooljee Nagurdas entitled? It would be impossible for any man to prove to a fraction of a rupee the value of the property stolen from him, and the villagers, by apprehending the robbers, might have relieved themselves from all responsibility; so that we are not only obliged, but it is just that we should, in most cases, be guided by the statement made by the person robbed. In this case I find that one witness gives Rs. 375 as the value of that part of the property which he saw and is able to recollect; this, however, was not all the property Mooljee Nagur had, and the Magistrate having allowed Rs. 125 more for the value of the remainder, I agree with Mr. Harrison, and would not interfere.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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KONKUN.

Present, { WILLIAM EDWARD FRERE,
ROBERT KEAYS, } Puisne Judges.

[Petitions from Damodhur Mhowjee and Ramchunder Keshow to the Sudder Foujdaree Adawlut. Referred to the Acting Session Judge of the Konkun, H. P. ST. G. TUCKER, on the 14th January 1857, for Report.]

Order, affecting
Counsel in Criminal
Cases, recalled.

Petition from Damodhur Mhowjee and another to the Sudder Foujdaree Adawlut.—[Praying that an order of the Session Judge of the Konkun, not allowing the petitioners to act as counsel in criminal cases, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Acting Session Judge.—[Calling for a report.]

Return by the Acting Session Judge.—In return to this Precept, I have the honour to report, that the petitioners are persons who practise in the Sessions and the Police Courts as counsel for prisoners whenever they can

get a client, and that having at a recent trial (Case No. 96 of General Calendar) observed not only that they were perfectly unfitted by education or character for the task which they undertook, and that their so-called services were likely in future to be injurious to the persons who employed them, I prohibited them from practising, and issued a proclamation for the information of the public, in order that no person might afterwards engage them.

By Regulation XIII. Section XXXVIII. Clause 1st, and Act No. XXXVIII. of 1850, a person is allowed to employ whomsoever he can procure as counsel or pleader; but the object of these Regulations was to benefit accused persons, not to injure them. As the Courts have hitherto exercised no interference in the matter, a band of disreputable practitioners has been created, who, from their ignorance of the law, general stupidity, and recklessness of behaviour, often do real harm to those who employ them, when those persons happen to be innocent, by setting up a false defence instead of a true one. Many instances of the kind have occurred since my arrival at Tanna; and in addition to this evil, the time of the Court is wasted by the irrelevant questionings and frivolous pleas set up by persons of this stamp.

In the case which caused me to issue the order referred to, the petitioner Ramchunder Keshow, though there was not a particle of evidence against one of his clients, demanded a postponement; and the petitioner Damodhur Mhowjee, though the case had been under trial several days, after the close of the prosecution required the Court to adjourn, in order that two witnesses might be summoned from Bombay, whose attendance might easily have been previously secured had he stated he wanted them.

It appears to me that, without infringing on the above Regulations, a Session Judge may prohibit persons from

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Order, affecting
Counsel in Criminal Cases, recalled.

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Order, affecting
Counsel in Crimi-
nal Cases, re-
called.

acting as counsel in criminal cases who have satisfactorily established their incompetency ; and if the Sudder Foujdaree Adawlut think that he has not the power, I trust that they will take measures to have matters placed on a proper footing.

At Rutnagherry, a convict just discharged from jail presented himself shortly afterwards as counsel for a prisoner. To allow such persons to perform the above duties is a serious evil, and is an insult to the Native Bar, whose position should be raised in every manner possible.

Copies of the order and proclamation issued by me are forwarded. I regret that I should have so long delayed to report on the petition, but, as the Judges well know, I have been occupied lately with other matters of serious personal importance to myself.

The petition which accompanied this Precept is herewith returned.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—If the law was satisfied that all Session Judges would look after the prisoner's interests as well as the prisoner himself, or if the prejudice was not in favour of every man knowing what was best for himself, there would be no objection to Mr. Tucker's order ; but as it is always to be supposed that every man knows what is best for himself, and the law allows prisoners so much latitude that if they think it best to employ a disreputable man rather than a respectable Vakeel they may, we must direct the Session Judge to recall his predecessor's order.

That the people prisoners employ very often do their cases more harm than good, every man who has been a Session Judge must know ; but I fear it would be difficult to persuade most prisoners that the man suggested by the Session Judge, who watched the case, and asked few questions, was a better man to employ than one who might have been in jail himself, but never let a single

witness leave the box without asking him many questions, half of which may have elicited answers favourable to the prosecution and condemnatory of his client.

Minute by Mr. Keays.—I am well acquainted with these parties, and have for many years witnessed their incompetency as Old Bailey lawyers. I can hardly remember an instance in which their counsel was of benefit to their clients; I abstained from interfering, however, because, although I was perfectly alive to the extreme inconveniences and objections noticed by Mr. Tucker in his return to the Court's Precept, I did not consider that the Regulations justified my doing so. I am still of the same opinion, and consider that, as the law at present stands, Mr. Tucker's prohibition is illegal, and I am afraid the order must be annulled. I do not see how we could legislate so as to afford a remedy for the evil.

Resolution of the Sudder Foujdaree Adawlut.—The Acting Session Judge is to be requested to recall his predecessor's order.

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Order, affecting
Counsel in Criminal Cases, recalled.

R. Keays, Puisne Judge.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 159 of the Calendar of the Ahmednuggur Sessions Court for 1844. Tried by the Session Judge, W. J. HUNTER, on the 1st, 2nd, 9th, 13th, and 18th March 1844. Proceedings submitted to the Sudder Foujdaree Adawlut by the Session Judge.] AHMEDNUGGUR.

Prisoner.—Baeaja, Wife of Syajee, Koonbee, aged 25.

Murder.

Charge.—Murder.

Conviction and Sentence by the Sessions Court.—Convicted of murder, and sentenced to be hanged by the neck till you be dead, at the usual place of execution at Ahmednuggur; which sentence is, however, subject to the final decision of the Court of Sudder Foujdaree Adawlut. (Regulation XIV. of 1827, Section XXVI.)

W. J. Hunter,
Session Judge.

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AHMEDNUGGUR,
Murder.

Resolution of the Sudder Foujdaree Adawlut, dated 20th May 1844.—Conviction confirmed, and sentence mitigated to imprisonment for life, with labour befitting her sex.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut, dated 25th February 1857.—I have the honour to forward, for submission to the Judges of the Sudder Foujdaree Adawlut, the accompanying copy of a letter from the Civil Surgeon* at this Station, reporting on the present state of health of Baeja, wife of Syajee, a convict in the Criminal Jail, together with copy of her warrant, and to recommend that, in consideration of her old age and bodily infirmity, her sentence may be commuted to imprisonment without labour.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I do not think that there is any cause for commuting this sentence. The prisoner was tried and convicted of murder, and sentenced to imprisonment for life, with hard labour. It was a cold-blooded, deliberate murder of a husband by his wife with poison, and, so long as the prisoner is able to work, she ought to be so employed; when she is too feeble to work, of course she will be exempted, but I would not allow of any indulgence being shown her, as suggested by the Civil Surgeon. The Session Judge should have sent up his Assistant's letter to which Dr. Fraser's is an answer.

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—In this case the Session Judge recommends that the prisoner, who was convicted of murder in the year 1844, and sentenced to imprisonment

* *Letter from the Civil Surgeon to the Assistant Session Judge.*—In answer to your letter No. 1028 of 1856, I have the honour to state that the female convict Baeja, wife of Syajee, is in good health; but, as she is getting old, and is somewhat feeble, I would beg to recommend that she should be exempted from labour, an indulgence granted to the other female convicts sentenced for life.

The petition which accompanied your letter is herewith returned.

with labour for life, may, for the rest of her days, be exempted from labour. The Civil Surgeon reports that she is in good health, but that she is getting old (she is, according to the record, 57 years of age) and somewhat feeble. I do not think a case has been made out, and I would call upon the Session Judge to report what the Civil Surgeon means by saying that exemption from labour is an indulgence granted to the other female convicts sentenced for life.

Résolution of the Sudder Foujdaree Adawlut.—The Court see no reason for commuting the sentence.

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AHMEDNUGGUR.
Murder.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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TANNA.

[Case No. 21 of the Criminal Return of the Magistrate of Tanna for September 1856. Tried by the Acting Hoozoor Deputy Magistrate, DADOBA PANDOURUNG, on the 5th September 1856. Referred to the Magistrate for Report, on the 18th February 1857.]

Prisoner.—Khema Shirchund, Marwaree, aged 32.

Charge.—Appropriation of property by breach of trust (Regulation XIV. of 1827, Section XL.); in having fraudulently kept from its owner one pair of ear ornaments called 'kap,' of the value of about Rs. 401.

Appropriation
of Property by
Breach of Trust.

Conviction and Sentence by the Acting Hoozoor Deputy Magistrate.—Convicted, and sentenced to be imprisoned for six (6) months with hard labour (Regulation XIV. of 1827, Section XL.), and also to pay a fine of three hundred (300) rupees, under Act XVI. of 1850.

Dadoba Pandoo-
rung, Acting Hoo-
zoor Deputy Ma-
gistrate.

The above sentence was annulled by the Magistrate on the 8th September 1856.

Petition of Khema Shirchund to the Sudder Foujdaree Adawlut.—[Praying that the order of the Magistrate at Tanna, demanding from him security in the sum of Rs. 500 for one year, might be annulled.]

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TANNA.

Appropriation
of Property by
Breach of Trust.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report on the necessity for demanding security.

Return by the First Assistant Magistrate to the Precept.—The First Assistant Magistrate in Charge, in reply, has the honour to state, that the prisoner in this case was charged with fraudulently making away with ornaments of the value of about Rs. 400; and the grounds on which security has been demanded of the prisoner are, that on a former occasion he was charged with an act of fraud similar to that with which he has been charged in the present case, but the charge was not proved against him, as the matter was compromised: also, in the present instance, although the witnesses to the fact of prisoner's taking away the ornaments in question are undeserving of credit, yet, as prisoner stated before a number of persons that he had them in his possession, there is strong ground for suspecting him to be guilty, even though his confession before private individuals is insufficient for his conviction. In the opinion, however, of the First Assistant Magistrate in Charge, these grounds are insufficient to render it desirable to demand security from him, and it rests with the Court to annul the order to that effect, or not, as they think fit. The original petition is returned.

Resolution of the Sudder Foujdaree Adawlut.—The order is to be annulled.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 178 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Officiating Assistant General Superintendent at Belgaum, Captain W. D. DICKSON, on the 6th December 1856. Tried by the Session Judge, A. W. JONES, on the 26th December 1856. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

BELGAUM.

Prisoner.—Nad Tookya Naique oorf Boodya bin Poondya Naique, Kaikaree, aged 50.

Dacoity.

[See pages 145 to 149, Vol. VII. for previous proceedings in this case.]

Letter from the Secretary to Government in the Judicial Department to the Registrar of the Sudder Foujdaree Adawlut.—I am directed by the Right Honorable the Governor in Council to forward, for the information of the Judges of the Sudder Foujdaree Adawlut, copy of a resolution passed by Government on your letter dated the 9th ultimo, No. 270, submitting proceedings in the case of Nad Tookya Naique oorf Boodya bin Poondya Naique, a dacoit.

Resolution.—That under the circumstances stated in the letter from the Judges of the Sudder Adawlut, the Right Honorable the Governor in Council is of opinion that the sentence should be suspended, and that the Judges should be requested to issue instructions for the transfer of the prisoner to the Dacoity Department.

The Right Honorable the Governor in Council thinks that it should be explained why the Thuggee and Dacoity Department applied to the Session Judge of Poona for the transfer of the prisoner before the expiration of his previous sentence. The Right Honorable the Governor in Council is also of opinion that the suggestion contained in the 5th paragraph of the extract from the proceedings of the Sudder should be acted on, and

Resolution of the Sudder Foujdaree Adawlut.—Copy of the Government letter to be sent to the Session Judge, with a request that he will carry out the instructions it contains.

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BELGAUM.
Dacoity.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 6 of the Calendar of the Ahmednuggur Sessions Court for 1857. Committed by the Supernumerary First Assistant Magistrate, C. F. H. SHAW, on the 23rd February 1857. Tried by the Session Judge, J. W. WOODCOCK, on the 24th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.] AHMEDNUGGUR

Prisoners.—No. 1, Kanhoo wulud Muneeram, Bhoree, Murder.
aged 18.

2, Syed Hamed wulud Mahomed-
bhaee, Mussulman, aged 15.

Charge.—Murder (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st); in having, on or about the 11th February 1857, (corresponding with Magh Wud 3rd, Shuké 1778,) within the limits of the village of Shirismarg, Talooka Jamkheir, Zillah Ahmednuggur, assisted one Janoobhaee in purposely, and without justifiable or extenuating cause, depriving of life a boy named Suntram, aged about 11 years; the prisoner No. 1 (Kanhoo) by standing by whilst the aforesaid Janoobhaee muffled the face of the aforesaid Suntram, knocked him down with his fists, and then trampled on his neck until life was extinct, after which he (the prisoner No. 1, Kanhoo) received from the abovementioned Janoobhaee, and took charge of, the ornaments, to the value of Rs. 16-9-3, of the murdered Suntram, and from whom they were recovered the day following the murder, or on the 12th February 1857 (corresponding with the 4th Magh Wud, Shuké 1778); and the prisoner No. 2 (Syed Hamed) by enticing, on the above

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 AHMEDNUGGER. date, the deceased Suntram, under pretence of giving him some gum, into a copse of 'babool' trees, situated within the limits of the abovementioned village, and standing sentry on the road whilst the aforesaid Janoobhaee was murdering the aforesaid Suntram.

Murder.

The prisoners plead guilty.

J. W. Woodcock,
 Session Judge.

Finding and Sentence by the Sessions Court.—There is not a shadow of doubt in my mind as to the guilt of the prisoners, and I only make a difference between the punishments of the two prisoners because the second prisoner (Syed Hamed) is quite a boy, and he did not, though it is true he enticed the poor murdered boy into the jungle, take the active part in the foul murder which the first prisoner (Kanhoo) did; and I really think that the example will be more beneficial if he is transported than if he were executed.

Prisoner No. 1 (Kanhoo) is found guilty of murder; in having, on or about the 11th February 1857, (corresponding with Magh Wud 3rd, Shuké 1778,) within the limits of the village of Shirusmarg, Talooka Jamkheir, Zillah Ahmednuggur, assisted one Janoobhaee in purposely, and without justifiable or extenuating cause, depriving of life a boy, named Suntram, aged about 11 years, by standing by whilst the aforesaid Janoobhaee muffled the face of the aforesaid Suntram, knocked him down with his fists, and then trampled on his neck until life was extinct, after which he, the prisoner, received from the abovementioned Janoobhaee, and took charge of, the ornaments, to the value of Rs. 16-9-3 of the murdered Suntram, and from whom they were recovered the day following the murder, or on the 12th February 1857 (corresponding with the 4th Magh Wud, Shuké 1778); and Syed Hamed (prisoner No. 2) is found guilty of aiding in the above murder (Regulation XIV. of 1827, Section I. Clause 5th, and Section XXVI. Clause 1st); in having, at the aforesaid time

and place, enticed away the murdered boy Suntram, under pretence of giving him some gum, into a group of babool trees, and placed himself on the road to watch the approach of any person or persons whilst the boy was being murdered; and the Court passes the following sentences, under Regulation XIV. A. D. 1827, Section XXVI. Clause 4th, and Section I. Clause 5th :—

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AHMEDNUGGUR.

Murder.

That you, Kanho wulud Muneeram (prisoner No. 1) Bhoree, be taken to the usual place of execution, and there be hanged by the neck till you be dead.

That you, Syed Hamed wulud Mahomedbhatee, Musulman, be transported beyond seas for the term of your natural life. Which sentences are subject to the final confirmation of the Sudder Foujdaree Adawlut, to which the case will be referred.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The prisoners confessed the crime before the Police, and confirmed it before the Assistant Magistrate, and have pleaded guilty before the Session Judge; they now, in a petition to the Court, deny any participation in the murder. I cannot, however, find any reason to think that there is truth in their petition, or to distrust their pleas. The conviction and sentences must, I think, be confirmed.

W. E. Frere,
Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentences confirmed.

Present, { WILLIAM EDWARD FRERE, }
 { ROBERT KEAYS, } Puisne Judges.

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TANNA.

[Notice issued by the First Assistant Magistrate of Tanna, H. B. Boswell, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 20th February 1857.]

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found

Notice by
Magistrate.

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 TANNA.
 Notice by
 Magistrate.

necessary to preserve for drinking purposes the water of a public tank called 'Soopalee,' situated at the foot of the hill 'Senhora de Monte,' at Bandora, Talooka Salsette, Zillah Tanna: all persons are hereby prohibited from bathing, and washing animals, clothes, or any other articles in it, and from dirtying it in any way, and from using the water for any trade. Disobedience of this Injunction will be punished according to law.

Letter from the First Assistant Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to enclose, for submission to the Judges, a copy and translation of a Notice issued by me in the town of Bandora, in this Zillah, under Section XIX. of Regulation XII. of 1827.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to explain, or specify in detail, the extent to which he would carry out the prohibition against taking the water for any trade.

Return by the Magistrate to the Precept.—In execution of this Precept, the Magistrate begs to explain, that the prohibition in question originated in the obstruction of the water of the Soopalee tank by Perigrine Antonio Xavier, Patel, for the purposes of his garden land, and in his refusal to abide by the Magistrate's award that he had no title to the use of this water, which was intended for the public. The word *ବ୍ୟୟ* in the Notice does not refer to *trade* but to the *business* of cultivation, to which the water was diverted, to the prejudice of the public, who required it for drinking. The tank in question is reported to be now dry.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be requested to direct his First Assistant to be in future more correct in his translations.

The tank being now dry, no occasion exists for the Proclamation, and the Court therefore will not record it.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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BELGAUM.

[Case No. 166 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Deputy Magistrate of Belgaum, RAGHOBANARDHUN, on the 10th November 1856. Tried by the Session Judge, A. W. JONES, on the 8th, 9th, 10th, 11th, 22nd, 29th, 30th, and 31st December 1856. Proceedings submitted to the Sudder Foudaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Goodapa bin Nursapa, Brahmin, aged 46.

Conspiracy.

2, Sungoodapa bin Mulapa, Brahmin, aged 30.

3, Ramajee Venkajee, Brahmin, aged 48.

Charge.—Conspiracy (Regulation XVII. A. D. 1828, Section I.); in that, on Saturday, the 8th November 1856, (corresponding with Kartik Shood 11th, Shuké 1778,) in the town of Belgaum, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, you called at the house of Balajee Narayen, a Karkoon on the Establishment of the Inam Commissioner in Belgaum, and offered and gave him a sum of Rs. 99 in the shape of a bribe, to induce him to obtain the Inamdars' (i. e. the prisoners No. 1 and 2, Goodapa's and Sungoodapa's) 'kyfeeuts' being written in the manner they wished, and to remove the attachment from their (the prisoners No. 1 and 2, Goodapa's and Sungoodapa's) Inam land, and to obtain the refund of a certain portion of the revenue of (this Inam land) their holding, which is now held in deposit by Government; thus having entered into a combination to effect an illegal purpose by corrupt means.

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—In this case the prisoners are charged with conspiracy; in having offered and given a bribe to a Karkoon on the Establishment of the Inam Commission in Belgaum.

A. W. Jones,
 Session Judge.

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BELGAUM. ,
Conspiracy.

It appears that the third prisoner (Ramajee) began the negociation on the part of the other two prisoners, by asking the Karkoon, Balajee Narayen, on the 23rd October last, whether he would take what the prisoners (who are Inamdars, and the examination of whose claims was on the point of being begun in the Inam Department) were willing to give. Balajee says he answered that he would consider and tell him in the evening ; and he then reported the matter to Captain Etheridge, the Assistant Inam Commissioner, under whom he serves, and was ordered to take the bribe, and to manage so as to ensure its detection.

Upon this the matter went on, and the next day, at a meeting of the prisoners and Balajee, the object of the bribe was explained and its amount settled, and Rs. 20 were given by Goodapa (prisoner No. 1) to Balajee, of which he gave Rs. 6 to prisoner No. 3 (Ramajee), and the rest he took to Captain Etheridge, with a report of the matter. This part of the case rests, however, solely on the evidence of Balajee Narayen, except that Captain Etheridge corroborates the giving to him of Rs. 14.

On the 7th November, Ramajee (prisoner No. 3) told Balajee Narayen that the money would be given him by the other prisoner next morning at his (Balajee Narayen's) house ; and Balajee having, therefore, ascertained from the other prisoners that this was correct, reported it to Captain Etheridge, who referred him to Mr. Welsh, the Sub-Assistant Inam Commissioner, who had orders to assist him. Accordingly, Mr. Welsh and Mr. Cantem, the Foudar of Belgaum, went beforehand and placed themselves in Balajee Narayen's house, so as to be able to see and overhear what passed, and at about 8 in the morning the prisoners Nos. 1, 2, and 3 (Goodapa, Sungoodapa, and Ramajee) all came to the house ; and it is shown by these witnesses, as well as Balajee Narayen, that a young man came first and called

Balajee to the house of prisoner No. 3 (Ramajee), but on Balajee Narayen's refusing to go he went away, and soon after the three prisoners came in, and some conversation passed about the Inam and the rest of the bribe which had been promised. Finally, prisoner No. 2 (Sungoodapa) took out and gave Rs. 99 to Balajee Narayen, on which Mr. Welsh and Mr. Cantem came down on them and arrested them all, seizing the rupees at the same time.

The parties were all conducted at once to the Deputy Magistrate, where their statements were taken down, in which they acknowledged having gone to Balajee Narayen's house, and the two first admit therein that they went with the intention of giving money to him on account of their kyfeents; but prisoner No. 3 (Ramajee) states that he only went there to show the house, and was called in by Balajee Narayen, and that he had been asked to lend money by prisoner No. 1 (Goodapa), and had accordingly got it for him that morning.

These statements were denied by the prisoners, but were proved by the attesting witnesses and the Deputy Magistrate to have been given by them voluntarily, though there was an evident interpolation on each declaring they were taken by force; that this was written after the taking of the statements is not only clear from the depositions of these witnesses, but from the papers themselves and the manner of the interpolation. How the prisoners were able to manage this is not of consequence in this case, but the matter will be referred to the Magistrate for inquiry.

The Session Judge is of opinion that the previous conference of prisoners No. 1 and 2 (Goodapa and Sungoodapa) with Balajee Narayen, as proved by the witnesses Sheik Kutal and Syud Casein (Nos. 5 and 6), connected with their seizure in the act of giving the money to him and the borrowing of this money on the morning of the 8th

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November, which is proved by the lender of the money and the bond which is recorded in the proceedings, establishes the charge against the prisoners Goodapa and Sungoodapa; and that it is also established against the prisoner No. 3 (Ramajee), by his being security for the sum borrowed and by his presence at the time of the giving of the bribe, when he is proved by witnesses Nos. 7 and 8 (Messrs. Welsh and Cantem) to have joined in the conversation about it, and must therefore have been perfectly well aware of the reason why the money was given.

The prisoners are therefore convicted of conspiracy; in that, on Saturday, the 8th November 1856, (corresponding with Kartik Shood 11th, Shuké 1778,) in the Town of Belgaum, of the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, you called at the house of Balajee Narayen, a Karkoon on the Establishment of the Inam Commissioner in Belgaum, and offered and gave him a sum of Rs. 99 in the shape of a bribe, to induce him to obtain the Inamdars' (*i. e.* the prisoners Nos. 1 and 2, Goodapa's and Sungoodapa's) *kyfeuts* being written in the manner they wished, and to remove the attachment from their (the prisoners Nos. 1 and 2, Goodapa's and Sungoodapa's) Inam lands, and to obtain the refund of a certain portion of the revenue of (this Inam land) their holding, which is now held in deposit by Government; thus having entered into a combination to effect an illegal purpose by corrupt means.

And, after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XVII. A. D. 1828, the following sentence is passed:—

That you, prisoners Nos. 1 and 3 (Goodapa and Ramajee), are sentenced to two (2) months', and you, prisoner No. 2 (Sungoodapa), to one (1) month's solitary confinement; and you, prisoner No. 1 (Goodapa), are further fined one thousand (1,000) rupees, or one (1) year's imprisonment with hard labour; prisoner No. 2 (Sungoodapa), you are

fined two hundred (200) rupees, or six (6) months' imprisonment with hard labour; and prisoner No. 3 (Ramajee), you are fined one hundred (100) rupees, or three (3) months' imprisonment with hard labour.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—Nothing can be more clear than this case from the prisoners' own showing, and the petition must be rejected.

Mr. Jones has allowed the witnesses to depose to a great deal of hearsay, which he should not have done; and the Note 4 which he has recorded is not evidence against the prisoners, as, though Balajee says that Ramajee's son gave him a 'chit' which he identifies, and is, I suppose, No. 4, though it is not recorded until after Captain Etheridge's evidence, it is not shown that Ramajee ever acknowledged it or any other note sent by his son, and without its being brought home to him in some way, the mere fact of Ramajee's son taking a note to Balajee is no evidence against Ramajee. Mr. Jones appears, at page 48, to have refused to allow the Vakeel for the defence to put certain questions to Balajee; the questions appear to have been questions to character, and as Balajee was a most important witness, it was of importance to the prisoners to show what his character was, and I think the Session Judge had better have allowed the cross-examination to have continued; but as there is sufficient evidence to prove the charge, even if Balajee had been shown to be utterly unworthy of credit, the prisoners lose nothing by the cross-examination having been stopped.

Minute by Mr. Keays.—In this case I consider the charge clearly proved. The prisoners Nos. 1 and 2 were taken in the very act of presenting the bribe to Balajee Narayan, and the previous conference of these prisoners with Balajee Narayan, as proved by the evidence of witnesses Nos. 5 and 6, and the having borrowed the money

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and given the bond for it to Shunkurow, as also shown in evidence, are further convincing proofs of the prisoners' guilt.

That the prisoner No. 3 was also an accomplice there can be no doubt. He opened the negotiation on the subject, was present at the conference, became the other prisoners' security to raise the money, and was, lastly, present when the money was paid.

Added to these proofs, we have the confessions of all the three prisoners, which are proved to have been voluntarily given, no force having been exercised to induce them to confess. Those documents have evidently been tampered with since they were taken. I see the Session Judge has brought the matter to the notice of the Magistrate. It is one which demands the strictest inquiry.

I would uphold conviction and reject petition.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

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KONKUN.

Murder.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 7 of the Calendar of the Konkun Sessions Court for 1857. Committed by the Third Assistant Magistrate, R. W. HUNTER, on the 10th February 1857. Tried by the Acting Session Judge, H. P. ST. G. TUCKER, on the 17th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Moolvee, Wife of Janya b'm Yesha, Warlee, aged 25.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, of 1827) ; in that, on or about the 29th January 1857, (Miteq Magh Shood 4th, Shuké 1778,) at Moujé Aklas, Péta Oomergaum, Talooka Sunjan, Tanna Division, Zillah Konkun, in the night, she did wilfully, and without justifiable or extenuating cause, deprive of

life Sidoo, her husband's second wife, by strangulation, or by blows with an axe on her face and neck, or by both these means combined.

The prisoner pleads guilty.

Finding and Sentence by the Sessions Court.—The prisoner has confirmed her confession after hearing evidence which, if admitted to be true, would be sufficient to establish the charge against her. In order that I might be satisfied that she knew what she was about, I, before reading her confession, asked her to state what had really happened, when she gave an account which corresponded with the tale she had told the Police, and stated that her object in placing the noose round her victim's neck and placing her foot on it was to prevent the deceased from rising suddenly. There can, therefore, be no doubt of her guilt, and I convict her of murder; in that, on or about the 29th January 1857, (Mitee Magh Shood 4th, Shuké 1778,) at Moujé Aklas, Péta Oomergaum, Talooka Sunjan, Tanna Division, Zillah Konkun, in the night, she did wilfully, and without justifiable or extenuating cause, deprive of life Sidoo, her husband's second wife, by blows with an axe on her face and neck. The prisoner is a poor creature, utterly uneducated, and in the lowest stage of ignorance that it is possible to conceive a human being. She has, however, committed a most cruel and deliberate murder, and I feel compelled in her case to pass the extreme sentence of the law. Crimes of violence are also so frequent in that District, that I must recommend that the sentence be carried out in the village where the crime was committed. The prisoner Moolvee, wife of Janya bin Yesha Warlee, is sentenced (subject to the confirmation of the Court of Sudder Foujdaree Adawlut) to be hanged by the neck till she be dead, at such place as the Court of Sudder Foujdaree Adawlut may think fit to order. (Regulation XIV. Section XXVI. Clause 4th, of 1827.)

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KONKUN.

Murder.

H. P. St.G.
Tucker, Acting
Session Judge.

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Letter from the Acting Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—I do myself the honour to forward, for the purpose of being laid before the Judges of the Sudder Foujdaree Adawlut, a counterpart of my proceedings held in the above case, wherein the prisoner Moolvee, wife of Janya bin Yesha Warlee, was tried and convicted before me of murder, and sentenced to death, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

The prisoner is a Warlee, and I have noticed in my finding her wretched intellectual condition. I can scarcely imagine a human being in a more deplorable state of ignorance. On the other hand, it is difficult to conceive a more cruel or deliberate murder than that which she has committed; and as, from the frequency of crimes of violence in that part of the country, an example appears to be necessary, I cannot recommend that the sentence should be mitigated. To make the example of more effect, I am of opinion that the sentence should be carried into execution in the village where the prisoner resided, for the people of her caste are so densely ignorant, and move so little from their own district, that this is the only means of letting them know that the law demands life for life.

In a former case* I noticed the wretched condition of the Warlee tribe, and suggested that the Executive Government should adopt all the means in its power to diffuse the blessings of education among them. I have since seen Mr. Frere's Minute in that case, in which he suggests an increased diffusion of European agency as a remedy for the evil, and in this I fully concur.

There can be no doubt that the district has been very much neglected, and that it is requisite that strenuous exertions should be made to civilise these unfortunate beings, and stop the progress of intemperance among

* No. 5 of Tanna Sessions Calendar, prisoner Rutnia bin Koorya, published at page 856, No. 6, Vol. VI. of Morris's Reports.

them. A European Officer specially selected for the task, and furnished with ample powers to carry out material improvements in the district, would soon acquire an influence over the tribe, and, if located there for several years, might effect a great deal towards their reformation. If at the same time members of the tribe, possessed of the necessary physical qualifications, were encouraged to enlist in the Police Corps and regular Army, they would in time assist in the work of enlightenment. The district is said to be very unhealthy at particular times of the year, but, doubtless, a spot may be found on the sea coast on which a house might be built in which a European could reside without injury during the unhealthy season.

The subject calls for the serious consideration of the Sudder Judges and Government, for, among a tribe of this description, an insurrection of a similar character to the Santhal rebellion might any day arise.

P.S.—The prisoner, since sentence was passed on her, has declared herself to be two months gone with child. She has been examined by the Civil Surgeon, who cannot state at present whether she is pregnant or not, and states that some months must elapse before he can give a decided opinion. A copy of his letter on the subject is annexed.*

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I should like to know what modification Mr. W. E. Frere,
Puisne Judge.

* *Letter from the Civil Surgeon to the Acting Session Judge.*—I have the honour to acknowledge the receipt of your letter, No. 353 of 1857, and to report to you that I have carefully examined the prisoner under sentence of death, named Moolvee, wife of Janya bin Yesha Warlee, with the view of ascertaining whether she be pregnant or not. I am unable, however, to give a decided opinion about the matter, as the pregnancy, if it exists, has so little advanced, only two months according to the prisoner's own statement.

I shall not be able to give a satisfactory report on the case within an earlier period than six weeks or two months from this date.

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Tucker would have suggested in the rule by which the evidence of husband and wife is excluded. I do not think the evidence of the husband ought to have been taken in this case, for the crime is no more a crime against the husband than murdering his child would be, and in that case the wife's evidence could not have been received. The exceptions in England are founded on evident necessity; and policy in this country would require that this evidence should be especially excluded in a case of this kind, lest partiality towards one of two wives should lead to perjury. So far, then, from any modification of the rule, I would enforce it in its strictest letter.

That this wretched woman had sufficient intelligence to know that she was doing wrong is shown from her having, after she murdered Sidoo, suspended the corpse, and then, to account for the mutilation, cut it down; and I can see no reason why the conviction and sentence should not be confirmed.

[The third paragraph of Mr. Frere's Minute is embodied in the Resolution of the Court.]

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—That the conviction in this case is sound there can be no question, and I would uphold the sentence of death which has been passed upon the prisoner by the Acting Session Judge. The point to be determined is, whether it shall be carried out, as suggested by Mr. Tucker, at the village where the murder was committed. She represents herself to be pregnant, and the Civil Surgeon reports that he will not be able to give a decided opinion as to the truth of this assertion for six weeks. At the expiration of this period much of the atrocity of the circumstances connected with the murder will have been forgotten, and then I do not think the example of carrying out the sentence at the village will have any very beneficial effect. I can therefore see no reason why the usual course should be departed from, and I would have the prisoner executed at the usual place at Tanna.

With regard to Mr. Tucker's observations on the subject of taking the evidence of the husband against a wife, I do not concur with him. No husband can be a disinterested witness against his wife, and I do not see that the fact of the man having a plurality of wives alters the case at all.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed. The latter is to be carried out at the usual place of execution at Tanna.

The Acting Session Judge's letter and the case are to be laid before Government, in the hope that some measures may be devised towards civilising the Warlee tribe; though the Court do not join with Mr. Tucker in the idea that these savages, physically and intellectually weak, are ever likely to cause an insurrection of the nature of the Santhal rebellion.

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KONKUN.
Conspiracy.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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KHANDEISH.

[Case No. 32 of the Calendar of the Khandeish Sessions Court for 1856. Committed by the Deputy Magistrate, RAM NAID, on the 22nd September 1856. Tried by the Session Judge, A. ST. JOHN RICHARDSON, on the 6th, 7th, 8th, 10th, 11th, 15th, and 17th October 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

Prisoners.—No. 1, Chinto Rughoonath, Brahmin, aged 78.

2, Huree Damodhur, *alias* Ana Moh-reer, Brahmin, aged 57.

3, Vitul Gopal, Brahmin, aged 39.

Charge.—Against prisoners Nos. 1 and 2, forgery; in having, on or about the 19th October 1831, (corresponding with Ashwin Shood 13th, Shuké 1753,) at the town of Bhurgaum, District Bhurgaum, or elsewhere in the province of Khandeish, prisoner No. 1 wilfully fabri-

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cated a false document, purporting to be a copy of a deed said to have been given on 7th Ashad Shood, Shuké 1726, Fuslee 1214, (A. D. 1804-5,) by Luxumon Ramajee Deshpandé, of the District of Bhurgaum, to Ramrao Aba Deshpandé, confirming the latter as his adopted son, heir, and successor to his estate, and granting to his uterine brothers, Yeshwunt Gopal and others, the hereditary clerkship of the whole of his hereditary office, as a perpetual and independent estate, when no such original deed had ever existed ; and the prisoner No. 2 (Huree Damodhur, *alias* Ana Mohreer) wilfully forged the signature of the said Ramrao Luxumon Deshpandé, as an attestation in token of its being a true copy, with the fraudulent intention of enabling the prisoners Huree Damodhur and Vitul Gopal and their co-heirs to retain perpetual possession of the said office (of agent or clerk) as an independent and hereditary office, to the injury of the interests of the said Ramrao Luxumon Deshpandé ; thereby rendering themselves amenable to the provisions of Clause 1st, Section XVII. Regulation XIV. of 1827.

The prisoners Nos. 2 and 3 (Huree Damodhur, *alias* Ana Mohreer, and Vitul Gopal) are charged with making a fraudulent use of the forged document, knowing it to be such ; in having, on 7th February 1833, (corresponding with Magh Wud 3rd, Shuké 1754,) through their counsel, knowingly and fraudulently produced the said forged document in the Court of the Junior Native Commissioner (as the Native Judge was then designated) at Erundole, District Erundole, Province Khandeish, in support of their defence against an action, No. 540 of 1831, brought against them by the said Ramrao Luxumon Deshpandé, District Bhurgaum, for the recovery of Rs. 3,000 on account of the income of his 'wutun' office of village accountant under their management : the prisoners' intention, in so uttering the forgery, being to

show that the office of hereditary agency ('wutunee goomashtegiree') had been granted to them by Luxumonrao Ramajee as an independent estate in perpetuity; thereby rendering themselves amenable to the provisions of Clause 2nd, Section XVII. Regulation XIV. of 1827.

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—The Court has to reconcile a vast number of discrepant narratives connected with this trial, any two of which afford such matter for doubt, that it may confidently be asserted that no judgment that can be passed on the evidence adduced on this trial will satisfy a Court of Appeal, simply because so much is left to conjecture, that the proverbial difficulty of a uniform opinion when more than one mind is brought to test evidence is increased by the variety of documents referred to, and the length of time which has elapsed since the crime, for which prisoners are now on trial, was committed. The prisoners are charged, Chinto Rughoonath (No. 1) and Huree Damodhur (No. 2) with forgery; Huree Damodhur and Vitul Gopal (No. 3) with making a fraudulent use of a forged document, knowing it to be such. They have each and all pleaded not guilty. The facts are simple, the deductions to show the act of forgery intricate, and the motives obvious. One Luxumonrao Ramajee, an hereditary District Officer of the District of Bhurgaum, held (by what title is not before this Court to inquire) the emoluments of the hereditary offices of Deshpandé to the District, and of hereditary accountant to forty-two villages in the District of Bhurgaum. He died Shrawun Shood 9th, Fuslee 1214, (August 1804,) and was succeeded by Ramrao Luxumon, who died Margsheersh Wud 15th, Fuslee 1259 (14th December 1849). His daughter was married to one Gopal Bhugwunt, who appears to have managed these estates on behalf of the said Luxumonrao Ramajee, and, as it eventually proved, with a strong

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A. St. John Richardson, Session Judge.

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bias towards his own interest. Five sons were the issue of that marriage, of whom Ramrao Gopal was adopted in Fuslee 1209 (A. D. 1799) by the said Luxumonrao Ramajee, who, in a deed said to have been drawn up in July 1804, dated in the corresponding Hindoo year Shuké 1726, Ashad Shood 7th, both acknowledged that he had adopted this Ramrao, henceforth called Ramrao Luxumon, and also—which is an arrangement inconsistent with the custom of adoption—granted to his (Ramrao's) uterine brothers Yeshwunt Gopal, &c. thus (in the copy before the Court) the hereditary office of clerk or agent to the Deshpandé, as a "perpetual possession and an independent estate." These brothers were (subsequently to the date on the copy) five: 1, Yeshwunt Gopal, since dead; 2, Ramrao, adopted by Luxumon Ramajee; 3, Tatia Gopal, who is affirmed to have absconded on being charged with cattle-stealing; 4, Huree Damodhur,* *alias* Ana Mohreer (prisoner No. 2), so called because his natural father, Gopal Bhugwunt, exercised the duties of clerk or writer to the hereditary District Officer, Luxumonrao; and 5, Vitul Gopal (prisoner No. 3), who was a party to the suit in which the document No. 3, alleged to be forged, was filed, as is shown by the application No. 15 in Case No. 540 of 1831, entered in this trial No. 48, on 7th February 1833, on the part of Gopal Bhugwunt the defendant, who deceased after the filing of the suit on 2nd October 1831, and was represented by his sons Yeshwunt (dead), Vitul (prisoner No. 3), Tatia Gopal (absconded), and Huree Damodhur (prisoner No. 2); and, therefore, if these exhibits are true, and they bear the usual official marks, although the Native Judge Ramajee Ramkrishn is said to be dead, and his signature is not proved on evidence, the document No. 3, which is a copy of a deed dated

* Called Damodhur from his adoptive father, one Damodhur Punt, his natural father's uncle.

A. D. 1804 or 1805, was written, as shown by evidence Nos. 7 and 38, and acknowledged by the prisoner No. 1 (Chinto Rughoonath), who admits he wrote it at the request and dictation of Huree Damodhur (prisoner No. 2) from a paper which the said Chinto Rughoonath did not see, so as to read or to be aware of what he wrote was accurately copied from the original, or whether, indeed, as the prosecutor in this trial assumes, *no* such original *ever existed!* and this document was entered under No. 45 in the Suit No. 540 of 1831, upon the application of Raojee Dutajee, the counsel for Yeshwunt and Vitul Gopal and Huree Damodhur, as may be seen from Exhibit No. 15 of Case 540 of 1831; so that the fact of Chinto Rughoonath having written the document is acknowledged by him, and the use made of the document, as averred in the indictment, by prisoners Nos. 2 and 3 (Huree Damodhur and Vitul Gopal) is also proved. There remains then the essential part of each charge. Is the document No. 3 a forgery? and was the use fraudulent? The document No. 3 is acknowledged to be written in the handwriting of prisoner No. 1 (Chinto Rughoonath), apparently including the witnesses' names, and then the paper is crossed by the word "*compared*" or "*accepted*" (but the latter meaning is not etymologically correct. "*Ramrao Luxumon, Deshpandé, aforesaid District, by his own hand and characters*"—and these words are alleged to be the forgery committed by the prisoner No. 2 (Huree Damodhur, *alias* Ana Mohreer). The evidence is direct to the characters not being the handwriting of Ramrao Luxumon, who is said to have been utterly unable to write more than his name, that badly and with difficulty, and quite incapable of framing the double characters as in the document No. 3, and indirect as to the improbabilities attending,—1st, *the position* of Ramrao Luxumon and his father; 2nd, the relative occupation of Huree Damodhur (prisoner

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No. 2), with whom the copy is found, and from whom Ramrao Luxumon is affirmed to have taken the original; and 3rd, the advantages of such a document, if proved to the cause of defendants in the Suit No. 540 of 1831; and by induction from certain letters proved by evidence to be the handwriting of prisoner No. 2 (Huree Damodhur), the evidence assumes the forgery to be the work of prisoners Nos. 1 and 2 (Chinto Rughoonath and Huree Damodhur) averred by both and employed for the advantage of Nos. 2 and 3 (Huree Damodhur and Vitul Gopal) in Suit No. 540 of 1831. Witnesses, whose evidence is entered Nos. 7, 34, 38, 39, 45, affirm that the *signature is not* that of Ramrao Luxumon, and that signature certifies *not* that the document is a true copy of an original, but *that the word* "compared," incompletely written, but according to the idiom of this country, bears that meaning. The document is attested by the signature of Ramrao Luxumon, not of the District of Bhurgaum, but of "aforesaid District"—in itself an improbability, as no district has been mentioned. The hand is a feigned handwriting, and, from comparison with many others shown in the Court, not like the hesitating style and ill-formed characters in which those signatures which are affirmed to be those of Ramrao Luxumon appear, but more like those of one who is a master of his pen, but who cramps and distorts the letters for effect. This is the direct evidence to the signature being a forgery; the indirect evidence rests on the facts, supposed to have been well known, that the office of clerk to the hereditary office of Deshpandé is not hereditary, is never disposable of in the manner which the document No. 3 purports the late Luxumonrao Ramajee assigned it, and that the proceeds of the office were, from Shuké 1688 (A. D. 1766) to Shuké 1722 (A. D. 1800), mortgaged to Bapajee Narain, of which a bond is affirmed, in the defendant's statement in Suit No. 540 of 1831, to have been taken back, probably redeem-

ed and the proceeds of the accountantship of the forty-one villages given over to Krishnrao Bhugwunt under a bond dated Margsheersh Shood 1st, Shuké 1722, (or February 1800,) entered No. 56 of Case No. 540 of 1831, by Ramrao Luxumon, during, of course, his adopted father's life, while the accountantship of one village may have been assigned to Yadow Rughoonath. Four years after the above date the bond, of which No. 3 is said to be a copy, is supposed to have appeared on Ashad Shood 7th, Shuké 1726, (about July 1804,) and one month and two days before the death of the adoptive father Luxumonrao Ramajee; and *that bond in original has never been proved or shown in any Court*, and is affirmed, in the judgment of the lower Court under date 18th September 1833, to be proved under the exhibit No. 45 by the evidence of witnesses whose evidence is entered Nos. 53, 55, and 62, of whom the first (Vitojee wulud Sunkrajee) affirms as a fact that Ramrao Luxumon resumed the original, leaving a copy (that now before the Court, No. 3) with the prisoner No. 2 (Huree Damodhur *alias* Ana Mohreer); when or on what occasion is not mentioned by this witness. The second (Yadow Raghoonath, No. 55) says he saw Ramrao put his signature on the paper No. 3 at the Deshpandé's house, and Vitojee Deshmookh put his seal, sign, and deponent his attestation, but these words evidently refer to the bond No. 40. "The original" [the Court observes that the original deposition is destroyed from two lines prior to these words], says this witness (Yadow Rughoonath), "was dated *Shuké* 1726, and was seen by him, and was at the date of his deposition, 6th April 1833, in the possession of Ramrao Luxumon, whose signature he affirms the copy No. 45 to bear; but he does not say when, or where, or in whose presence Ramrao resumed possession of the original, leaving the copy, as when filed, in possession of the prisoner No. 2 (Huree Damodhur). The third witness was the prisoner No. 1 (Chinto Rughoonath); and he, on

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8th April 1833, affirmed that the copy of a deed dated Shuké 1726, that is the document then filed as No. 45, now on Session trial No. 3, was written by himself, A. D. 1821, at the same time as memo. No. 39 and deed No. 40 of the Sult No. 540, which bear dates Magh Shood 1st and Magh Shood 2nd, Shuké 1743 (or 25th January A. D. 1822). That is, the three witnesses, in not very distinct terms, affirm that they saw the original of which No. 3 is the copy; and though the first two (Vitojee wulud Sunkrajee and Yadow Rughoonath) do not mention the date, the last (Chinto Rughoonath) declared it was seen and recovered by the Deshpandé, Ramrao Luxumon, during the year Fuslee 1231, Shuké 1743, (A. D. 1821,) at the time when other documents (Nos. 39 and 40 of Case No. 540 of 1831) were written and signed and attested ; and in that latter—the original of which it is affirmed, by an endorsement dated 27th September 1837, was returned to Huree Damodhur (prisoner No. 2)—it is distinctly stated that, in consideration of a debt of Rs. 24,735-5-6, the hereditary estate and office of Agent was conveyed to Huree Damodhur (prisoner No. 2) and Yeshwunt Gopal ; so that, apart from the inconsistency of admitting the validity of a copy of a deed, the original of which had been resumed by the heir of the original conveyor, the claim, which is asserted in the deed No. 3, is affirmed on the decree No. 540 of 1831 and reconveyed in the bond entered No. 40 ; so that, if No. 3 be a forgery, it was a useless act of villany. The prosecution next sets forth that each of these witnesses who gave evidence in April 1833 was bribed by the prisoner No. 2 (Huree Damodhur, *alias* Ana Mohreer) ; and the witness No. 41 (Abajee Gunesh) affirms and shows by his books that he, at the written request of Huree Damodhur, *alias* Ana Mohreer (prisoner No. 2), actually paid sums to each of these witnesses, and also sent over to Erundole a silver tray and some gold orna-

ments for the Moonsiff, known as Ramajee Punt Tatia, relative to which the same witness before this Court affirms that, on the Moonsiff declaring it was short of weight, he personally convinced him to the contrary, and therefore actually delivered it to him according to an entry in his books, No. 42, on Bhadrupud Shood 9th, Shuké 1755 (22nd September 1833). The suit was decided on 18th September 1833: Now, relative to these transactions, pending the prosecution of Suit No. 540 of 1831, in which decree was given in favour of prisoner No. 2 (Huree Damodhur) and others (the sons of Gopal Bhugwunt), a series of letters, in the handwriting of Yeshwunt Gopal and Huree Damodhur and others, are entered, Nos. 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, and 32. These documents are of dates extending over a period from A. D. 1809 up to the end of 1833, and of these that marked No. 8 is of the most importance to the prosecution. It is affirmed by the evidence of witnesses, entered Nos. 33, 34, 38, 39, 40, 41, and 45, to be in the handwriting of Yeshwunt Gopal, under the signature of Huree Damodhur (prisoner No. 2), also addressed to Vitojee Deshmookh, that is, one Vitojee wulud Sunkrajee, the father of witness No. 35 (Krishnaje, wulud Vitojee), an hereditary District Officer of the District of Bhurgaum, and who deposes to having, at the request of Narain Anundrao (witness No. 7), who is the chief agent in this prosecution and the confidential clerk of Trimbuk Ramrao, the elder son of Ramrao Luxumon, and the present Deshpandé of Bhurgaum, made search in his father's records, and, *in company* with Narain Anundrao, found a few weeks ago, the papers Nos. 8, 10, 28, and 36, in a recess in the verandah of his house. They purport to be as follows:—No. 8, dated 19th October 1831, to be a note in which the suit of the Deshpandé (No. 540, 1831) is referred to, and that, to support the defence, the writer

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(Huree Damodhur, prisoner No. 2) informs his correspondent that he had caused four papers to be forged, those entered Nos. 39, 40, 41, and 45 of Case No. 540, and had forged the names of Vitojee wulud Sunkrajee, one of the No. 40 in consideration, for which use of his friend's name he forgave him a debt of Rs. 2,500, returning the bond No. 10 of Session file torn, and would also pay him Rs. 295, of which Rs. 79 were paid through Abajee Gunesh Bhut (witness No. 41), shown in the extract No. 42 of that person's account, and the balance (Rs. 216) in five months, of which payment there is *no evidence* on record, and the transaction is recorded in No. 8 only. No. 28 is a draft, said by the evidence Nos. 38 and 39 to be copied by Huree Damodhur (prisoner No. 2) and dated 14th November 1822, being a kind of agreement on the part of Vitojee wulud Sunkrajee to offer no opposition to the claims of Huree Damodhur (prisoner No. 2), Ramrao Luxumon, and Yeshwunt Gopal to the office of Deshpandé, in the place of Ramrao Luxumon, on the plea that their grandfather Damodhur Punt redeemed at his own cost many claims, either of mortgage or of sale, against the estate encumbered by Luxumonrao. The original of this is *not* on record.

No. 36 is supposed to be a memorandum of payments, amounting to Rs. 20,299-13-6, paid by Damodhur Krishn on account of Luxumonrao Deshpandé, dated Ashad Shood 5th, Shuké 1726, or Fuslee 1214, (July 1804,) and underneath that sum is written, in the handwriting, as affirmed by the witness No. 35, of his father Vitojee wulud Sunkrajee—"This is the draft from which a document was prepared by the Wurjeekur (prisoner No. 1, Chinto Rughoonath), in Shuké 1743 (that is, exhibit No. 40 in Case No. 540 of 1831), and also the copy of a deed dated Shuké 1726, of which no original existed (Session file, exhibit No. 3), by Huree Damodhur ; and on this account a bond for Rs. 2,501 was torn and re-

deemed" (that is No. 10 of Session file). This paper (No. 36) is affirmed by the evidence Nos. 38, 39, and 40 to be partly written in the handwriting of the prisoner No. 2 (Huree Damodhur), and partly in that of prisoner No. 3 (Vitul Gopal), who was not born, he avers, till Shuké 1726; and the last lines are, by the same witnesses (Nos. 35, 38, and 39), identified as the handwriting of Vitojee wulud Sunkrajee.

These papers, being proved, are, if not forgeries (and there is no evidence to throw discredit on them), of the utmost importance to the part taken by Huree Damodhur (prisoner No. 2). The improbability consists in writing a bond (No. 8) in which a series of gross palpable forgeries are acknowledged; and for the aid given by the Deshmookh, Vitojee wulud Sunkrajee, a bond of Rs. 2,500 is returned and Rs. 295 extra paid, which bond is duly attested; and for twenty-five years neither the attesting witnesses nor the parties concerned have once mentioned the matter with a view to expose the conspiracy against the misguided and defrauded Deshpandé, Ramrao Luxumon, by whose own money the false attestation is paid for,—the bond No. 10 being in the name of Ramrao Luxumon. So that there is at once an extraordinary degree of daring impudence manifested in the act of the prisoner No. 2 (Huree Damodhur), and a fresh subject of doubt as to the truth of the story for the prosecution and the authenticity of these papers.

The documents Nos. 11 and 12 are, the one a petition, and the other a statement, dated 9th and 26th January 1831, presented by Yeshwunt Gopaland Ana Mohreer (prisoner No. 2) to the District Officer of Bhurgaum, and produced by that functionary from his records; while they are affirmed, by evidence Nos. 38, 39, 40, 41, and 45, to be under the signature, and the replies and remark at the end in the handwriting, of Huree Damodhur (prisoner No. 2).

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The documents from 13 to 23 were produced by Adv-
jee Gunesh, who affirms himself to have had dealings for
many years with Gopal Bhugwunt and his sons, and
that, with the exception of some words in the Balbodh
character, No. 17 is in the handwriting of Huree Damo-
dhur (prisoner No. 2), and was addressed to this witness
about the year A. D. 1833, as he finds by comparing the
engagements therein alluded to with his accounts from
Shuké 1752 to 1756, entered in Session file Nos. 42,
43, and 44.

The documents Nos. 24 and 25 were produced by the
prosecutor's agent and referred to in his evidence No. 7.
They are without any year to the date, but are affirmed,
by the evidence Nos. 38, 39, 40, 41, and 45, to be in the
handwriting of Gopal Bhugwunt, the father of prisoners
Nos. 2 and 3, and are supposed, from the purport of
document No. 26, which was produced by witness No.
37, and is affirmed, by evidence Nos. 38 and 39, to be in
the hands of Gopal Bhugwunt, and partly in the hand-
writing of Huree Damodhur, Kartik Wud 3rd, written
about A. D. 1809, as is also the exhibit No. 27, dated
about August 1820, and is affirmed by the same evidence
to be in Huree Damodhur's handwriting, and advises the
mortgaging of the office of Clerk or Agent to the here-
ditary office of Deshpandé, and also they are addressed to
Ramrao Luxumon.

The document No. 29 was entered by the plaintiff,
Ramrao Luxumon, in the Suit No. 540 of 1831 ; it is
dated *February* 1812, (Māgh Wud 2nd, Shuké 1733,) and
purports to have appointed Rajaram Mulhar the
head Agent for the office of Deshpandé of Bhurgaum.
This document was not proved before the Erundole
Court, nor referred to in the decree of 18th September
1833.

The documents entered Nos. 30 and 31 are dated Chui-
tru Shood 1st, Shuké 1728, (April 1806,) and Wuishak

Shood 1st, Shuké 1733, (May 1812,) from Ramrao Luxumon to *Anundrao Bapoojee*, relative to the disposal of the emoluments of the office of Deshpandé and accountant, &c. &c. No. 29 is affirmed, by evidence Nos. 39, 40, and 38, to be in the handwriting of Yeshwunt Gopal, while Nos. 30 and 31 are, on evidence, identified as the handwriting of Gopal Bhugwunt. No. 32 is entered, from the reference made by the witness Narain Anundrao (No. 7), as having formed a part of the exhibits in Suit No. 540 of 1831, and is affirmed by him to be to show that Ramrao Luxumon redeemed the office of Mohreer from Rajaram Mulhar, and then the office was at his (Deshpandé's) disposal on Chuitru Shood 9th, Fuslee 1214, Shuké 1727, (A. D. 1805, April,) that is, about eight months after the death of *Luxumon Ramajee* and nine months after the supposed date of the bond of which No. 3 purports to be a copy. Such is a brief outline of the case for the prosecution. The document No. 3 was never before any Court in original, and is not very clearly stated by the witnesses before the Civil Court at Erundole in April 1833 when and where it was seen by them; it is said to have been seen by prisoner No. 1 (Chinto Rughoonath) in Fuslee 1231, (A. D. 1821,) when this copy, according to his statement then given, was made by him. The presumption, therefore, is, that *no such* document existed; that the evidence then given was not as direct as it should have been to carry conviction; that a bond not before the Court had existed for thirty years, and been resumed by the owner twelve years before the copy was filed; that there is evidence before this Court to show that each of those witnesses was, about the time of the trial, paid divers sums of money by the prisoner No. 2 (Huree Damodhur); and also that the exhibit on that trial, No. 540 of 1831, shows that the production of this copy of a deed not forthcoming was not necessary, while the deed No. 40, of a later date:

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namely A. D. 1821, conferring the same advantages to Huree Damodhur (prisoner No. 2) and his brothers, existed and was found. As the evidence did prove it, even if the witnesses spoke falsely or not, the record showed that bond No. 40 proved. It was therefore unnecessary to enter the copy No. 3, and it could not have been valid to prove more than the relative dealings between the parties during the life of Luxumonrao Ramajee, as, of course, by *resuming* possession of the bond, it was admitted that the *purpose* for which it had passed into the hands of Yeshwunt Gopal and others had *ceased* to exist. There is also the irregularity of Damodhur Krishn's claim allowed in the deed No. 40, on account of Huree Damodhur's adopted father's advances and those of his uterine brothers, from whose interests by adoption Ramrao Luxumon had separated, being admitted by Luxumonrao Ramajee in the copy of the earlier dated bond. So that the father made over to Yeshwunt Gopal and others not named that which the son made over by a subsequent deed 17 years after to Huree Damodhur (prisoner No. 2) and Yeshwunt Gopal ; and, with such bonds in possession, is it probable, among a people so litigious as Hindoos, that each would have allowed his claims to be merged into those of his brother, when the younger brother (prisoner No. 2) had been adopted into another (the elder) branch of the family ?

If it be assumed (for there is no evidence to this point) that all the extraordinary collection of documents are forgeries, although they are all proved on evidence, then the case for the prosecution is as false as it truly is improbable. Either the man Narain Anundrao has collected, with wonderful acumen and skill, very pertinent evidence to prove his case, or he and those who have affirmed these documents have rendered themselves liable for conspiracy.

The Court, whatever opinions may be hereafter raised on this judgment, must follow the dictates of

conscience and duty ; and therefore, with the fact before it of the copy of a deed, No. 3, the copy being in the handwriting of Chinto Rughoonath (prisoner No. 1), written, as he affirmed in April 1833, and also before this Court, at the request of Huree Damodhur (prisoner No. 2), and the assertion in his deposition originally taken, No. 51, affirming that he gave back the original to Ramrao Deshpandé, when the evidence before this Court shows that no such document either existed, or was, from other information, and from the discrepancy in the bonds, exhibits Nos. 40 and 45 of the trial No. 540 of 1831, likely to have existed, *he did know* that the deed *he wrote was not a copy* but a draft, either from the imagination or from notes held by Huree Damodhur (prisoner No. 2), the Court does find him convicted of forgery ; in having, on or about the 19th October 1831, (corresponding with Ashwin Shood 13th, Shuké 1753,) at the Town of Bhurgaum, District Bhurgaum, or elsewhere in the Province of Khandeish, wilfully fabricated a false document, purporting to be a copy of a deed said to have been given on 7th Ashad Shood, Shuké 1726, Fuslee 1214, (A. D. 1804-5,) by Luxumon Ramajee Deshpandé, of the District Bhurgaum, to Ramrao Aba Deshpandé, confirming the latter as his adopted son, heir and successor to his estate, and granting to his uterine brothers, Yeshwunt Gopal and others, the hereditary clerkship of the whole of his hereditary office as a perpetual and independent estate, when no such original deed had ever existed ; while, as there is no evidence to Huree Damodhur (prisoner No. 2) having actually made the signature, which the evidence above alluded to shows is not that of Ramrao Luxumon Deshpandé, and yet the deed No. 3 was in his possession until filed on 7th February 1833, as shown by the purport of the documentary evidence, as well as the endorsement on No. 3 under date 27th September 1837, if it be true that

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it was written in A. D. 1831 and delivered to him by the writer Chinto Rughonath (prisoner No. 1); or if that be, as the Court believes, a falsehood, it originated from him, by the fact proved from the records of Case No. 540 of 1831, exhibit No. 15, that his pleader, Raojee Dutajee, whose power of attorney shows that he acted for Yeshwunt Gopal deceased, Vitul Gopal, and Huree Damodhur (prisoners Nos. 3 and 2), and as Yeshwunt and Raojee Dutajee are both now dead, it is impossible to separate the responsibility of uttering this forged document to either of the prisoners Nos. 2 and 3 (Huree Damodhur and Vitul Gopal) more than the two whose interests were then united in defence of Case No. 540 of 1831 ; still it is shown on evidence that it was filed, and therefore used, knowing, as the documents above entered show, that it was a forgery ; the Court considers the prisoners Nos. 2 and 3 (Huree Damodhur and Vitul Gopal) guilty of having made a fraudulent use of the forged document, knowing it to be such ; in having, on 7th February 1833, (corresponding with Magh Wud 3rd, Shuké 1754,) through their counsel, knowingly and fraudulently produced the said forged document in the Court of the Junior Native Commissioner (as they were then designated) at Erundole, District Erundole, Province Khandeish, in support of their defence against an action, No. 540 of 1831, brought against them by the said Ramrao Luxumon Deshpandé, District Bhurgaum, for the recovery of Rs. 3,000, on account of the income of his hereditary office of Village Accountant under their management, the prisoners' intention in so uttering the forgery being to show that the office of hereditary agency (wutunee goomashtigiree) had been granted to them by Luxumon Ramajee as an independent estate in perpetuity. And the Court observes here, that the prisoners' counsel has ascribed unworthy motives to the Collector as the originator of this action, which no evidence here

adduced has ever insinuated, much less given cause for the Court to contemplate; and as the documents the prisoners' counsel has called for are of dates all subsequent to the date of the offence, as stated in the indictment, and the exhibits from Suit No. 540 of 1831, which he wished to have produced in original, have been examined in copy from the original exhibits of that suit; while it is, moreover, affirmed to be on record that his clients, on 14th October 1854, said the original of the deed No. 40 of Case No. 540 of 1831 had been lost, and the prisoners, when before the Committing Magistrate, declared they did not wish to call evidence, the Court considers no further remarks on the defence are required, as the evidence for the prosecution must be either rejected or believed to be what the papers purport to be, viz. *bonâ fide* correspondence and deeds, &c. showing the relative positions of all parties connected with the hereditary office of Deshpandé in Bhurgaum, and, believing them, the Court has recorded the above judgment.

No. 55. Read and recorded a Warrant, dated 9th October 1827, issued by G. Giberne, Esquire, Magistrate of Khandeish, to the effect that the remaining portion of the sentence passed by Mr. Dent, on 16th March 1824, against Huree Damodhur, *alias* Ana Mohreer (prisoner No. 2), to pay Rs. 2,522-8-0 to Government, on account of deficit in his accounts, or, in default, to undergo four years' imprisonment, should now be executed.

No. 56. Read and recorded a Warrant, dated 10th February 1835, issued by Mr. Larken, Assistant Magistrate, sentencing prisoner No. 2 (Huree Damodhur, *alias* Ana Mohreer) to undergo one year's imprisonment for threatening Savjia and Avjia, Mahars, and for exacting from them a quantity of grain.*

No. 57. Read and recorded a Warrant, dated 31st

* The sentence was annulled by the Court of Sudder Foujdaree Adawlut under date the 29th November 1847.

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August 1847, issued by W. J. Hunter, Session Judge, confirming the sentence passed by the Senior Assistant Session Judge of Dhoolia against prisoner No. 2 (Huree Damodhur), to undergo two years' imprisonment with hard labour and two months in solitary confinement, and at the close of his confinement to pay to Government a fine of Rs. 1,000, and, in default, to be imprisoned for a further period of one year with hard labour, for forgery.

Prisoner No. 2 (Huree Damodhur) allows the above three Warrants to be true.

No. 58. Read and recorded a Warrant, dated 16th January 1836, issued by A. Campbell, Assistant Magistrate, sentencing prisoner No. 3 (Vitul Gopal) to undergo imprisonment for three months without labour, for illegally charging to Government Rs. 1½, in the charitable allowance allowed to the seven villages, for his own benefit.

Prisoner No. 3 (Vitul Gopal) allows the above Warrant to be true, and the Court proceeds to pass the following sentence:—

You, Chinto Rughoonath (prisoner No. 1), being convicted, on evidence adduced on this trial, of forgery, do undergo three (3) years' imprisonment with hard labour; and you, Huree Damodhur (prisoner No. 2), and you, Vitul Gopal (prisoner No. 3), having been convicted of making a fraudulent use of a document knowing it to be forged, do undergo, each of you, three (3) years' imprisonment with hard labour, under the provisions of Section XVII. Clause 3rd, Regulation XIV. of 1827.

* * * * *

The Session Judge here records, for the information of the Judges of the Sudder Foujdaree Adawlut, that the length and variety of the documents filed and proved in this trial prevented the possibility of writing out a finding

on the evening of 15th October 1856, the date on which the defence was heard. That on the 16th a vast variety of papers were to be considered ; and as a number of witnesses were received with a case of assault from the Supernumerary First Assistant Magistrate on the evening of 15th, to whom it would have been gross injury to detain them longer than was necessary, therefore that case was disposed of on the 16th, and the Court has been this day occupied from 10-15 A. M. till 4 P. M. with the trial now ended.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—This case, which appears to have cost the Session Judge so much trouble, appears to me a far more simple one than could have been expected, seeing that the forgery must have been committed, and the fraudulent use made of it, twenty-four years ago.

The document which it is said is forged is that filed as No. 3. The prisoner Chinto admits that he wrote it from Huree's dictation. Huree will not say anything about it, contenting himself with saying that the documents have been proved in the Civil suit, but he admits having filed it in the suit by his Vakeel Raojee ; the prisoner Vitul pleading that he was only 15 or 16 years of age at the time. The only question then for trial was, whether the document was a forgery, and whether Huree and Vitul knew it to be so when it was filed. From the evidence of Narain Anundrow (witness No. 7), Gunesh Mahadeo (witness No. 38), Bhugwuntrao Narayen (witness No. 39), and Venkoba wulud Purvutrao Deshmook (witness No. 45), it is very evident that Ramrao's signature in attestation of No. 3 is a forgery ; and though I do not find the Session Judge has noticed it, the Deputy Magistrate, Ram Naid, whose summary of this case is most able and reflects great credit on him, has in paragraph 13 pointed out that the wording of the signature is that adopted since we obtained possession of the country, and not such

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as was usual during the reign of the Peshwa, when the document in question is said to have been drawn out. The Session Judge has quoted Apajee (witness No. 34), as affirming that the signature is not Rámrao's, but, as he never saw Ramrao write, his evidence is of no weight on this point ; but that recorded above is sufficient to prove it. Exhibits Nos. 11 and 12 go to support the supposition that No. 3 must be a forgery, which No. 8 and the witnesses Balajee Ramchunder, Apajee Yadow, and Krishnarao Vitojee (Nos. 33 to 35) would prove it to be beyond doubt. The prisoners, however, in their defence, have called for several papers, of which the Session Judge has taken no notice : the whole of these should have been sent for, or reasons assigned for not doing so ; and the Session Judge should get them now, as from some of them it would appear that an agreement had been come to by the parties in 1837. I should also like to see the petition, &c. for review.

Vitul Gopal is said to be 39 years of age ; he was consequently born in 1817, and in 1833 could only have been sixteen years of age. I do not find that he took any active part in the case, or that he did anything but sign the 'vakeelutnama,' and I do not think that he should be punished for filing the forged document when his age would lead to the supposition that he could have taken no active part in the case.

I have now carefully gone over the papers received from the Session Judge ; and the Magistrate's report, No. 1701 of the 10th October last, which prisoners have called for among other papers, does them more harm than good. I can find nothing in any of these papers to lead me to alter the opinion I formed before, and I would therefore annul the conviction against Vitul Gopal, there being no evidence against him ; and the proof of the other prisoners having committed forgery being complete, I would reject their petition.

Minute by Mr. Keays.—The prisoners in this case are charged with forgery, and making use of a forged document for the fraudulent purpose set forth in the indictment, and have severally pleaded not guilty.

After a very careful consideration of the evidence in this case, I can come to no other conclusion than that the document is forged. The proof that it is so rests chiefly on a note, Exhibit No. 8, written by prisoner No. 2 to one Vitojee Deshmook in 1831, in which he states that he had caused a document to be fabricated by prisoner No. 1, purporting to be a copy of a document of the year 1804, regarding the goomashtigiree wutun; that he had himself forged the signature of Ramrao; and that, as a reward to Vitojee for having attested the said document, he had returned to him cancelled a bond for Rs. 2,500 due by him to prisoner, ordered Aba Bhut to pay him (Vitojee) Rs. 79, and further, engaged to pay him a sum of Rs. 216.

This letter was found amongst Vitojee's papers, and was produced by his son Krishnarao (witness No. 35) to complainant's agent. It is corroborated by the production of the cancelled bond for Rs. 2,500, also found and given up by Krishnarao; and further, by the remark made by Vitojee, appended to Exhibit No. 36 in his own handwriting, as clearly proved in evidence, in which he makes a distinct allusion to the forgery; and lastly, by the evidence of Abajee Gunesh, (witness No. 41), and his accounts recorded No. 42, in which the item of Rs. 79 is debited as paid to Vitojee on account of prisoner No. 2.

Further proof of the document being a forgery is found also from the signature of Ramrao being evidently written by a person able to write well, whereas it is in evidence that Ramrao was unable to write except with difficulty, and quite unable to form compound letters.

Then again Gopal Bhugwunt, in the year 1809, five years subsequent to the date of the forged bond, pro-

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posed that Ramrao should mortgage the wutun ; this he most certainly would not have done, had the said wutun been disposed of, as alleged in the forged bond, for the benefit of his other sons.

Lastly, there is the correspondence regarding the corrupt means adopted by prisoner No. 2 to establish the validity of the document before the Civil Court.

It is therefore clearly proved that the document is a forgery, and was written at the instigation of prisoner No. 2 by prisoner No. 1. It is now to be seen how far prisoner No. 1 knew that it was a fraudulent document, and fabricated with a nefarious design. In proof of this it is in evidence that, before the Civil Court, he (prisoner No. 1) stated that he had seen the original of which the forged document purports to be a copy, while he now denies the truth of this statement, and from the further fact of his having received a decree of Rs. 50 during the course of the Civil suit. I have, therefore, no doubt of this prisoner's guilty knowledge that the document was a fraudulent one, and consider he has been properly convicted.

The case against the second prisoner seems so clear that hardly any comment is necessary. He himself admits that he caused the said document to be produced before the Civil Court ; and, from the proofs already noticed, it seems beyond doubt that he well knows it was forged.

I would reject the petition of these two prisoners, but acquit the prisoner No. 3 (Vitul Gopal), as I do not find that there is any evidence against him.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence of Vitul Gopal are annulled, and the prisoner is to be discharged.

The petition of the other prisoners is rejected.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN APRIL 1857.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 80 of the Calendar of the Sholapore Sessions Court for 1856.

SHOLAPORE.

Committed by the Second Assistant Magistrate, J. A. G. DUFF, on the 19th December 1856. Tried by the Session Judge, T. A. COMPTON, on the 29th, 30th, and 31st December 1856, and 2nd, 3rd, and 5th January 1857. Proceedings submitted to the Sudder Foudaree Adawlut, on the petition of the prisoner.]

Prisoner.—Gungajee wulud Tumajee, Putwegur, aged 30.

Misconduct as
an Officer in the
Police Depart-
ment.

Charge.—Misconduct as an Officer in the Police Department (Regulation XII. of 1827, Section VIII. Clause 1st); in having, in the month of August 1856, (corresponding with Shrawun Mas, Shuké 1778,) in the Village of Agurkhed, Talooka Indee, been instrumental in the fabrication of a false charge of robbery by night, with force, and knowingly receiving stolen property, against one Andoo wulud Rama Rungaree, by intimidating and otherwise ill-treating the witnesses in the case, by which means he induced them to give false evidence against Andoo; and in having, about the 5th or 6th August 1856, (corresponding with Shrawun Shood 4th and 5th, Shuké 1778,) exact date unknown, at the village of Agurkhed, Talooka Indee, in the Zillah of Sholapore,

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Police Department.

T. A. Compton,
Session Judge.

beaten and kicked the aforesaid Andoo Rungaree, lighted a cotton wick dipped in oil and dashed the hot oil several times over the person of the said Andoo, and thereby blistered his body, in order to induce him to plead guilty to the false charge of robbery which had been brought against him.

Finding and Sentence by the Sessions Court.—The prisoner, Gungajee wulud Tumajee, Police Naik, is charged with misconduct as an Officer in the Police Department, and pleads not guilty.

The complainant, Andoo wulud Rama Rungaree, was tried by the First Assistant Magistrate of Sholapore, on the 15th August 1856, on a charge of having robbed one Mulkapa Dungee and another, by night, of gold and silver ornaments to the value of Rs. 153-12-0, and was acquitted in consequence of some of the witnesses having repudiated their statements (before the Police Amuldar), and asserted that they had been compelled by the prisoner (Gungajee) to give false evidence against Andoo; and the prisoner is now charged not only with having fabricated the charge, and intimidated these witnesses into perjuring themselves with the view of procuring Andoo's conviction, but with having beaten and kicked Andoo, and applied burning oil from a lighted wick to different parts of his body, in the presence of the District Police Officer.

Mulkapa Dungee deposed, before the First Assistant Magistrate, that he was taking the above ornaments for one Shewlingapa Patel (to whom they belonged) to Sorégaum, and that on the road he met Andoo Rungaree; that they crossed the river Bheema together, and that he (Mulkapa) told Andoo he had the ornaments with him; that shortly after sunset he (Mulkapa) and his companion Ningapa were attacked by four men and robbed of the ornaments; and that he recognised one of the thieves to be Andoo, by his cream-coloured tattoo

and by his voice. Ningapa corroborated this statement (but there were sundry discrepancies between his evidence and Mulkapa's); and two of the Shetsundees of Luchian, and the Revenue Patel of the village, deposed that on searching Andoo they found two silver waist-girdles (belonging to Mulkapa) in his saddle-bags.

Konher Goondoo, the Koolkurnee of Luchian (where Andoo was apprehended), however, stated, before the First Assistant Magistrate, that the prisoner Gungajee Naik had sent for him, and told him that his first report about the matter to the Indee Mamlutdar would not do, and that he must write a fresh one, stating that the ornaments had been found upon Andoo, and as many of the witnesses for the defence repudiated their former depositions *against* Andoo, alleging that they had been compelled to give false evidence, the First Assistant Magistrate acquitted Andoo of the charge.

Andoo now alleges that he had gone to Pudnoor with his family from Indee, for the purpose of bathing in the Bheema, and was returning home, when about 9 A. M. they arrived at the village of Luchian, and stopped there near a well for the purpose of washing their faces, &c.; that there four Shetsundees of Agurkhed (two of them named Moolka, the third Tooljaram, and the fourth Mohideen) came up to him, and told him they had the Mamlutdar's orders to arrest him; that he refused to accompany them till he had seen his family home, or unless they could produce a Peon or a written order from the Mamlutdar; that upon this one of them beat him, and he fell off his horse; that he was then taken into Luchian, and charged by the Shetsundees with having stolen two silver girdles which *they* produced.

Andoo adds that, on being sent up to the District Police Officer at Agurkhed on the alleged charge of robbery, he was taken to a Jagheerdar's house, where the District Police Officer was living, and asked by the

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latter if he was the person who had presented an anonymous petition against him ; and that, on his denial, the prisoner (Gungajee Naik) struck him on the back with his fist, knocked him down, kicked him, lighted a cotton wick, and dropped the hot oil over his body, blistering it in several places ; and that he was then told that he had induced a Mang woman to bring forward a false charge against one Nursoo, Lance Naik. Some days afterwards he was sent up for trial before the First Assistant Magistrate on a charge of having robbed one Mulkapa Dungee.

Dhanapa wulud Mulapa (witness No. 3), who was associated with Andoo in the charge, and accused of having received a silver 'chowk' and two bangles (belonging to Mulkapa Dungee) from Andoo, deposes that the chowk and bangles were placed in his backyard by the Village Police (when searching his premises), for the purpose of procuring his conviction, as he is at enmity with the Police Patel ; and that the prisoner (Gungajee) told him to state before the Mamlutdar that he had received the ornaments from Andoo, and beat him on the back and head to make him say so.

Three of the Shetsundees of Agurkhed, viz. Tooljaram, Mohideen, and Moolka (Nos. 6, 7, and 8), though they vary a little in their statements, all depose that they were sent to Luchian to lie in wait for Andoo Rungaree as he went from Pudnoor to Indee ; and Mohideen affirms that Kulapa Patel supplied him with the two silver waist-belts or girdles, and told him to thrust them into Andoo's saddle-bags and bring him away ; that they waited for him near the well at Luchian, assaulted him, tried to force the girdles upon him, and, when taken into the village, taxed him with the robbery.

Tooljaram (witness No. 6), who does not appear to have been in the secret, states that when Moolka and Mohideen tried to force the ornaments upon Andoo, he suspected something was wrong, and gave the alarm ;

and *this man was not cited as a witness against Andoo in the robbery case.* He states that the prisoner (Gungajee) threatened to kill him, if he dared to reveal what had been done to Andoo at Luchian, upon which he fled into the Nizam's Districts.

Mohideen (witness No. 7) affirms that the prisoner (Gungajee) told him to depose that Mulkapa Dungee had charged Andoo with having robbed him, and that he (Mohideen) and the other Shetsundees had apprehended Andoo with Mulkapa's ornaments upon him; he adds, that the prisoner threatened to deprive him of his place, and send him to prison, if he failed to give this false evidence, upon which he complied, and adhered to the falsehood before the First Assistant Magistrate.

Moolka (witness No. 8), the third Shetsundee, gives similar evidence, and affirms that both the prisoner and the Police Amuldar instigated him to give false evidence against Andoo, and that the prisoner struck him twice: this witness admits that he was the person who endeavoured to thrust the girdles into Andoo's saddle-bags.

The evidence of the fourth Shetsundee, Moolka wulud Syudbhaee, has not been taken, because he perjured himself before the Second Assistant Magistrate, and asserted that the girdles *were* found upon Andoo; he, however, confessed the perjury in the Sessions Court, and acknowledged that the truth was that the girdles *were forced* upon him.

Shetiapa (witness No. 10) deposes that he was near the well at Luchian when Andoo came up, and that he saw one of the Shetsundees try to force the girdles upon him, and that the prisoner afterwards instigated him to depose that he had not witnessed this, and that he did so accordingly, but repudiated the falsehood before the Assistant Magistrate.

Dewraya (witness No. 13) and Bahiroo (witness No. 14, the owner of the well) similarly depose that they

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saw the girdles lying near the Shetsundees *before* Andoo came up, and saw the former try to force the girdles into his saddle-bags.

Jindabhaee (witness No. 4), in whose house Andoo Rungaree was living at Pudnoor, deposes that he was taken to Agurkhed and kept in the Patel's garden for a day and a night, and that the prisoner (Gungajee) told him that if he would not give false evidence in the case, he would find himself in the same position as Andoo; and Jinda's wife, Masooma (witness No. 5), similarly asserts that the prisoner threatened her with the consequences if she did not depose that Andoo did *not* come to their house.

It is proved, by the evidence of Konher Goondoo and Ragho Govind (witnesses Nos. 9 and 11), the Koolkurnees of Luchian, that the prisoner (Gungajee) sent for them at Agurkhed, and told them that their first report, in which they had stated that Andoo denied having had the girdles in his possession, must be altered, and that they were to write a fresh report, asserting that the ornaments were found upon Andoo *in their presence*; that they complied, and that the prisoner (Gungajee) then held their first report over a lamp and *burnt it*.

They produce copies of these two reports, which are entered with the other documents in the case.

Ana wulud Kalekhan, another Shetsundee of Agurkhed (witness No. 15), also deposes that the prisoner instructed him to depose that Mulkapa Dungee had come to the Chowree and accused Andoo Rungaree of having robbed him; and Ningya and Yelapa (witnesses Nos. 16 and 17) similarly affirm that the prisoner beat them, and threatened them with the consequences if they did not depose, one that he had seen Andoo robbing Mulkapa, and the other that he had seen Andoo running along the Pudnoor road.

The evidence of the three witnesses, Peerapa, Bapoo,

and Buslinga (Nos. 18, 19, and 20), who assert that the prisoner knocked Andoo down in the presence of the District Police Officer, and then lighted a wick and dropped hot oil over his body, appears to the Court wholly unworthy of credit. In the first place, they are all nearly related, the two first being brothers, and Buslinga their nephew; in the second place, they assert that a great many other people were present during Andoo's maltreatment (as if it were likely that the Mamlutdar and the prisoner would carry on such practices before a host of witnesses); and in the third place, their evidence is full of discrepancies. Peerapa says his brother Bapoo went with him to the 'wara,' where the Mamlutdar was living; but Bapoo denies this, and states that he did not see Peerapa there during the assault, while Peerapa asserts that when he was turned out of the yard by the Sepoys, Bapoo remained behind.

Buslinga, again, who deposes that there were ten or twelve other persons in the yard, declares that he did not see either Peerapa or Bapoo there; and it appears that they never mentioned to the Mamlutdar the business about which (they allege) they came to Agurkhed, viz. the straying of Buslinga's bullock.

Furthermore, if Andoo Rungaree had really been burnt by the prisoner, the marks would have been plainly visible on his body when the case was tried by the First Assistant Magistrate (only three days afterwards); but it is manifest from the papers in the case that he then made no such accusation against the prisoner, and did not even charge him with having beaten him.

But the other evidence in the case appears conclusively to establish that the prisoner (Gungajee) was most actively engaged in getting up the false charge against Andoo, and suborning the witnesses against him to perjure themselves, by maltreatment and intimidation.

The prisoner is accordingly convicted, on the evidence

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against him, of misconduct as an Officer in the Police Department ; in having, in the month of August 1856, (corresponding with Shrawun Mas, Shuké 1778,) in the village of Agurkhed, Talooka Indee; in the Zillah of Sholapore, been instrumental in the fabrication of a false charge of robbery, by night, accompanied with force, against one Andoo wulud Rama Rungaree, by intimidating and otherwise maltreating the witnesses in the case to give false evidence in the case, and to assert that they had seen Andoo in company with the prosecutor Mulkapa Dungee, and that some of the stolen property had been found upon him.

After a mature consideration of the offence which the prisoner has committed, together with the nature of the punishment provided for the same by Clause 1st, Section VIII. Regulation XII. of 1827, the Court proceeds to pass the following sentence :—

That you, prisoner Gungajee wulud Tumajee, undergo ordinary imprisonment without labour for three (3) years.

* * * * *

The Session Judge regrets that the provisions of Clause 1st, Section VIII. Regulation XII. of 1827, do not admit of his sentencing the prisoner to hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause for interference, and the petition is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Petition of Balcrushn Mahadeo Prudhan to the Sudder Foudaree Adawlut. Referred to the Acting Session Judge of Poona, C. M. HARRISON, on the 14th January 1857.]

[See pages 413 to 416, Vol. VI. and pages 293 to 299, Vol. VII. for previous proceedings in this case.] Complaint against a Moonsiff.

Petition of Balcrushn Mahadeo Prudhan to the Sudder Foudaree Adawlut.—[Praying that his present petition may be placed with his former one, and inquired into.]

Precept issued by the Sudder Foudaree Adawlut to the Acting Session Judge.—[Calling for a report.]

Translation of a Report made by Azim Abajee Baboorow, Moonsiff of Wurgaum.—On a perusal of the papers received with the order, I beg to bring the following circumstances to notice, with the object of showing that Balcrushn Mahadeo's petition is groundless.

Tikaram bin Gungaram filed a suit, No. 722 of 1851, for Rs. 28, against Balajee Govind and others. It was decided *ex parte* by Gopinath Rugoonath, Moonsiff, on the 18th of October 1851, in favour of the plaintiff. He petitioned me to enforce the said decree against certain property belonging to the defendant. One year having expired between the passing of the decree and the date of the application, and the case having been decided *ex parte*, I issued a notice, requiring the opposite party to appear and show cause, if any, against the enforcement of the decree. No one having appeared within the prescribed time, an order, No. 2301, was, under date the 22nd June 1853, issued to the Nazir to enforce the 'durkhast.' Subsequently the security (Bapoo bin Bawojee) of the defendant presented a petition, setting forth that he had paid the amount for which he had stood security, and obtained the plaintiff's receipt. As this was a circum-

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stance which should have been represented before the decree was passed, I, on the 5th July 1853, issued an order on his petition, to the effect that, unless he appealed against the decree, or applied for a review of judgment, nothing could be done in the matter, and, to enable him to do so, the execution of the decree was ordered to be stayed for twenty days. On the 25th July a petition for review of judgment was accordingly presented through his Vakeel, Jugonath Babajee; but as it was not accompanied by a copy of the decree, a review of which was prayed for, it was returned to him, and he was directed to present it with a copy of the decree. On the same day the Vakeel presented another petition in behalf of Bapoo, praying that the execution of the decree might be stayed for a further period of twenty days, to enable him to obtain a copy of the decree in question. An order, under date 25th July 1853, was passed on this petition, delaying execution for fifteen days. From the accompanying statement of the Vakeel it will further appear that the application for review was returned for the reason above assigned. After this the Vakeel of the plaintiff having applied to cancel the said durkhast, the Nazir made a report thereon, dated 22nd August 1854, and an endorsement (in the handwriting of Balcrushn Mahadeo himself) was made on it on the 25th idem, to the effect that it should be placed on record, the matter having been disposed of.

Some time afterwards the plaintiff again made application for executing the decree, on which an order, dated 8th December 1854, was passed to the Nazir, to issue the usual notice, &c. The Nazir reported, stating that the notice had been issued, on which I gave an order to enforce the decree, on the 15th January 1855. The Vakeel, Jugonath Babajee, of the security Bapoo, being ill and absent, in consequence Bapoo got another Vakeel, Gunesh Sudasew, to write a 'shera,' or note on the appli-

cation for review, stating that it had been presented on the date of the shera, i. e. the 26th January 1855, and gave it in; at the same time presenting to the Court another petition, praying that the plaintiff's durkhast might not be enforced. On a consideration of the papers, I was of opinion that a review of judgment was necessary, and accordingly made a report to the Judge, forwarding all the papers and proceedings, and recommending the application; and on the other petition I issued an order to suspend execution until the application for a review of judgment had been disposed of.

My recommendation having been sanctioned by the Judge, the papers, &c. were returned to me. On this, it having been proved that Bapoo had settled with the plaintiff and obtained his receipt, I passed a decree, under date the 17th November 1855, disallowing plaintiff's claim against Bapoo, and fining him Rs. 25 for bringing a groundless claim against Bapoo; in default of payment, plaintiff being imprisoned in the Civil Jail for one month. And the plaintiff having, moreover, solemnly affirmed to the truth of his plaint before Gopinath Rugoonathjee, knowing at the same time that Bapoo had paid the amount due by him, it was also stated in the decree that measures should be taken for proceeding against him for perjury.

The report, requesting sanction for levying the fine, having been approved of by the Judge, an order was received to carry it out, and the fine was accordingly recovered from plaintiff, and a report made, forwarding the amount, in order that it may be credited to Government. The plaintiff was then, under the Interpretation received on Section IX. Regulation XII. of 1827, arraigned for perjury, and committed for trial to the Sessions Court, a report, dated 11th July 1856, being submitted with the case.

From the foregoing circumstances it is for you, sir, to

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consider whether I acted unjustly in issuing the usual notices to the opposite party ; in allowing Bapoo, the security of the defendant, time either to appeal or apply for review of judgment ; in pointing out to him the measure he was to adopt ; and in suspending the execution of the decree, to enable him to act accordingly. Balcrushn Mahadeo states in his petition that I concealed the 'vakeelputra' of Jugonath Babajee, but this is a palpable falsehood. In the order passed by me, under date the 25th July 1853, it is clearly stated that the petition and vakeelputra in question should be placed with the durkhast presented by the plaintiff, and with that durkhast it has ever since remained. It will also appear evident that the Judge having dismissed Balcrushn Mahadeo from the situation of Sheristedar in my Court, on the reports regarding his misconduct submitted by me, he is exerting all the means in his power to injure me by making such false representations.

Balcrushn Mahadeo also alleges in his petition that from motives of personal benefit I screened the plaintiff. From the context of the case I beg you will consider whether such a thought could ever have entered my mind ; and, with reference to this and other false accusations brought against me by Balcrushn Mahadeo, I leave it to you, sir, to decide, bearing in mind the position I hold, and the duties in connection with which I have conscientiously performed, whether his conduct is not most unjustifiable, and whether he does not come within the scope of Regulation IV. Section LI. of 1827.

The papers called for in the order are recorded in the Suit No. 722 of 1851.

The papers received are herewith returned.

Return by the Acting Session Judge.—The petitioner having been convicted before the Sessions Court of perjury with reference to one of the charges preferred by him against the Moonsiff, the Acting Session Judge, when

at Wurgaum, did not consider it necessary to enter upon any further investigation than that required by the extract from the Court's proceedings received with the Precept No. 1144, of the 10th December last.

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a Moonsiff.

He has now the honour to submit the Moonsiff's reply to the additional charge specified in the petition herewith returned, from which the Judges will perceive that it is as false and groundless as those that preceded it.

After the security of the defendant had moved for a review of judgment, on the ground of having paid the amount claimed and holding a receipt, the concealment of the application for the enforcement of the decree by the plaintiff's Vakeel was a suspicious circumstance, and one which ought to have attracted the Moonsiff's attention, and led to inquiry; but the application for a review of judgment having been renewed by the security, in consequence of the plaintiff having again applied for the enforcement of the decree, and the Moonsiff's subsequent proceedings clearly show that the omission may be attributed to an oversight, and that there is no reason whatever to suspect him of having (as asserted by the petitioner) connived at the plaintiff's fraud by suppressing, in the first instance, the application for a review, by concealing the 'vukalutnama,' and, finally, by tampering with the petition itself.

This return has been unavoidably delayed, owing to the papers which had been deposited in the Dufter at Poona being required by the Moonsiff to enable him to prepare his reply, in translating it, and by the Acting Session Judge's absence on circuit at Kheir and Jooneir.

The original petition is herewith returned, as directed.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The case having ended in Tikaram's punishment, and the suggestion that the Moonsiff's object in

W. E. Frere,
Puisne Judge.

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favouring him having originated with a servant discharged by the Moonsiff, I do not think any further notice need be taken of this petition than to tell petitioner that we are satisfied with the Moonsiff's explanation.

I would, however, request the Judge to point out to the Moonsiff that the law does not require that a petition for review should be accompanied by a copy of the decree, and that, in requiring it and giving back the petition without an endorsement on it, he gave the petitioner, or any enemy he might have, an opportunity of pointing out an irregularity and founding a charge upon it, which, had the result of Tikaram's case been different, might have affected the opinion we might form on the Moonsiff's report.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner not being present for the third time, his petition is struck off.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDABAD.

[Case No. 155 of the Calendar of the Ahmedabad Sessions Court for 1856. Committed by the First Assistant Magistrate, W. A. RITCHIE, on the 19th December 1855. Tried by the Assistant Session Judge, C. WALTER, on the 7th and 8th January 1857. Reviewed by the Session Judge, A. B. WARDEN, on the 23rd April 1856. Proceedings submitted on the requisition of the Sudder Foujdaree Adawlut.]

Serious Assault.

Prisoner.—Jafer Kesur, Musulman Belooch, aged 40.

Charge.—Serious assault; in having, on October 17th, 1855, (Ashwin Shood 7th, Sumvut 1911,) within the bounds of Shumanee, Purgunna Dholka, Zillah Ahmedabad, seriously assaulted complainant Jugla Bhula Bhurwad, by wounding him on various parts of the body with a sword, to his grievous bodily injury.

Finding and Sentence by the Sessions Court.—The prisoner is charged with serious assault, accompanied by wounding, and pleads not guilty.

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C. Walter, As-
sistant Session
Judge.

The direct evidence to the assault is contained in the deposition of the complainant who identified the prisoner, and in that of the boy, Hajeea, who, though of tender age, gives his evidence with great candour and simplicity. The prisoner, being the Village Havildar, is a person with whose appearance he would naturally have been previously well acquainted, so that there is every reason for relying on his identification of him as correct. The next evidence is circumstantial. The witness Govind was tending cattle near, and he deposes that he saw the prisoner going in among Jugla's cattle with a drawn sword. He, however, does not pretend to have witnessed the assault, and though the direct evidence is thus scanty, yet this very fact shows that the charge is not one got up against prisoner, through enmity or any other cause.

The next point in the evidence is the finding of the sword by the wounded man. This is sufficiently proved. The wounded man himself explained, when recalled, how it came to be sheathed; his account of his having come to his senses during a short interval, and of his anxiety that the scabbard should not be lost sight of, is not in itself improbable. The only thing suspicious about it is, that he never mentioned it before. The Court has, however, cut open the scabbard, and finds marks of blood at intervals all the way down the inside, which shows that the sword was sheathed before the blood on it had time to dry. The prisoner admits this sword to be his own, but urges that it was taken from his house; which statement, however, he does not attempt to support by any evidence.

Another proof of prisoner's guilt might have been indirectly found in the marks of blood on the cloth

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which prisoner is shown to have been wearing on this occasion, but there are objections to this bit of evidence. The Mookhee deposes that he found prisoner in the Chowra, with his clothes wet, as if from being washed, and with marks of having been beaten; in fact, there was one wound on the forehead from which blood was flowing. It might, therefore, be argued in favour of the prisoner, that the blood on the clothes was from this; and such argument might be further strengthened by the fact that the Mookhee, instead of taking charge of the clothes (as he should have done) as so much evidence in the case, and instead of confining the prisoner, as it was his duty to do (more especially as at the time he thought the wounded man would not live), merely contented himself with keeping him under surveillance for a considerable period in his own room, in company with his own wife. Under such favourable circumstances it can hardly be supposed that if the blood had been caused by the wound of the person he had assailed, prisoner would not have got rid of such damning evidence of his guilt. This conduct of the Mookhee will be mentioned to the Magistrate. He acted in the same way with regard to the sword which he left in Rugha's charge. This negligence appears most culpable.

The Court, however, thinks that, setting the bloody clothes on one side, the rest of the evidence is most conclusive against the prisoner, especially as he has made a most unsatisfactory defence, and that too utterly unsupported by proof. That he was beaten himself is very possible. The wounded man deposes in Court that he may have struck his assailant with a stick while defending himself, while, as the Mookhee was absent, it is very likely that when the friends of the wounded man heard of the assault from Hajeea, they may have taken a revenge of their own by ill-using prisoner, who has, however, no mark of serious injury. What the motive for the assault

may have been it is difficult to say. Probably prisoner, in going his rounds, may have got into altercation with Judla, whose buffaloes may have been doing damage; and it is a well-known fact, that when away from the village, Rubarees, as a race, are measured neither in their language nor conduct. The prisoner is described as a hasty, violent man, and may have committed the very serious assault in a fit of passion. The assault was of the most serious nature. The wound across the loin is nearly seven inches long, and the wounds on each arm show an intention of the assailant to maim. The Court was doubtful at first whether the charge should not have been attempted to commit murder; but, on the consideration that there is not the least suspicion that there was any previous malice, has come to the conclusion that the present charge is the correct one.

The Court accordingly convicts prisoner of serious assault, accompanied by wounding; in having, on the 17th October 1855, (Ashad Shood 7th, Sumvut 1911,) within the bounds of Shumanee, in the Dholka Purgunna of the Ahmedabad Zillah, seriously assaulted complainant, Jugla Becher, by wounding him on various parts of his body with a sword, to his grievous bodily injury; and the Court, having found the prisoner guilty as above, and having taken into consideration the nature of the offence committed, and of the punishment provided therefor in Regulation XIV. of 1827, Section XXIX. Clause 1st, proceeds to pass the following sentence:—

That you, Jaffer Kesur, be imprisoned and kept to hard labour for a period of four (4) years; the above sentence being subject to the confirmation of the higher Court.

Reviewed by the Session Judge.—The Court, after having carefully perused the papers and proceedings connected with this case, fully concurs in the view taken of it by the Assistant Session Judge, and considers that

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the proofs alluded to by him in his finding satisfactorily establish the prisoner's guilt. As the wounds inflicted by the prisoner on the prosecutor were of a serious nature, the Court confirms the sentence passed on the prisoner by the Assistant Session Judge. The Court considers that the Mookhee of the village was wrong in not taking away the clothes stained with blood from the prisoner, and also for allowing the prisoner's wife to remain with him.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner is shown, at any rate, to be a violent tempered man; and though the sentence might otherwise be heavy, the Court do not think it heavier than ought to be passed upon him, and they therefore reject the petition.

The Assistant Session Judge should not have recorded the hearsay in the depositions of Rugha and Godur. He has very properly not referred to it in his finding, but his case would have been more perfect if he had not recorded it in the deposition.

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POONA.

Forcible Removal of a Buffalo.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition of Ranoo bin Abajee to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Poona, D. DAVIDSON, on the 11th February 1857, for Report.]

Petition from Ranoo bin Abajee to the Sudder Foujdaree Adawlut.—[Praying that an order, directing the forcible removal of his buffalo from his house, might be annulled, &c.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report upon the question about the forcible removal of the buffalo from petitioner's house.

Petitioner is told that he should present a separate petition on the other subjects.

Return by the Magistrate.—The Magistrate begs to report that, under the following circumstances, it will be observed that the petitioner's assertion, about the forcible removal of his buffalo by Luxumon Anunt Patuck, Bhagoobhaee, and others, is perfectly unfounded.

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POONA.

Forcible Re-
moval of a Buffalo.

The petitioner borrowed the sum of Rs. 12-2-0 from Luxumon Anunt Patuck, and passed a document, on the 11th Wuishak Wud, Shuké 1774, mortgaging his buffalo, and binding himself to repay the same by selling the animal, in the event of his failure to pay the amount within the period stipulated. On the expiration of the period so agreed, the petitioner of his own accord, on the amount being demanded, made over the buffalo to the defendant to remain in his charge.

There being no proof in support of coercion on the part of the Police Patel or anybody else, the First Assistant Magistrate, on the petitioner's preferring a complaint, allowed, under date the 19th January 1856, the buffalo to remain where it was, and directed the party, if he felt himself aggrieved, to have recourse to the Civil Court for redress.

On the appeal by the petitioner, the Magistrate, after making the requisite inquiries, confirmed the First Assistant's decision, under date the 19th December 1856.

The original petition, received with the Precept above, is herewith returned.

The Murathee papers in the case the Magistrate begs to forward also.

Resolution of the Sudder Foudaree Adawlut.—The petitioner not being present for the third time, his petition is struck off.

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BROACH.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition of Burjord Paishee to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Broach, C. J. DAVIES, on the 25th February 1857, for Report.]

Order to furnish
Security.

Petition from Burjord Paishee to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Broach, requiring him to furnish security and recognisance bonds, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Report by the Magistrate.—The Magistrate has the honour to report, that on July 11th, 1856, the Foujdar of the town of Broach reported to the First Assistant Magistrate, who was then in charge of the office of the Superintendent of Police, that certain persons—Parsees, Mussulmans, Hindoos, and Purdesses—were in the habit of assembling in the house of one Motee and of gambling there, and that frequent quarrels and other disturbances were the result of these meetings. The Foujdar named Motee Burjord *alias* Munwo (petitioner) and Sirdar Unoo as taking the most prominent part in these disorderly proceedings, and he recommended that security should be taken from them not to meet in this manner, and not to create such disturbances. On July 16th the First Assistant Magistrate caused Burjord (petitioner) to furnish a security bond and to enter into a recognisance bond, the penalty of each bond being Rs. 50, binding himself not to hold such disorderly meetings at his house, and otherwise to be of good conduct for one year. Motee and Sirdar, being unable to furnish security, were called upon to enter into recognisance bonds, binding themselves in the above manner for the above time under a penalty of Rs. 100 each.

On July 27th they all three appealed to the late Magistrate, who referred the petitions of appeal to the First Assistant Magistrate, for report.

In reply, the First Assistant Magistrate reported that the petitioners were gamblers and disorderly persons, of bad general character.

With his report he forwarded a Memorandum from the Foujdar, which showed that Motee, on 25th July 1839, was fined Rs. 3, or, in default, imprisoned for six days for theft.

On 11th April 1840 was imprisoned for six months with hard labour, for receiving stolen property.

On 23rd September 1848 was acquitted of a charge of assault.

On 8th July 1849 was fined Rs. 3, or, in default, imprisoned for six days, for assault.

On 18th September 1850 was fined Rs. 4, or, in default, imprisoned for eight days, for making a false charge against a woman.

On 7th October 1852 was fined Rs. 4, or, in default, imprisoned for eight days, for abuse.

On 19th December 1854 was imprisoned for five months with hard labour, and fined Rs. 13, or, in default, imprisoned for six months, for fraudulent appropriation of property.

No case was on record against Sirdar Unoo, but it was stated that Burjard (petitioner) had some years previously been apprehended in connection with a case of murder.

The late Magistrate, on the receipt of this report, rejected the appeals, and confirmed the order of the First Assistant Magistrate.

Against this decision petitioner now appeals.

Return by the Magistrate.—The Magistrate has the honour to forward separate reports, in English and Guzerathee, as required in the within Precept. This Pre-

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cept is therefore returned (with the Guzerathee petition), duly executed.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that his report in English should have been made in return to the Precept. The return and report should not be separate documents.

The Court will not interfere with the decision in this case, but they would point out to the Magistrate that the better plan for putting a stop to such misconduct as petitioner is charged with, is to take the offender in the fact and give him exemplary punishment.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 112 of the Calendar of the Dharwar Sessions Court for 1855. Committed by the Second Assistant Magistrate, C. F. H. SHAW, on the 28th August 1855. Tried by the Session Judge, A. W. JONES, on the 24th, 25th, and 26th October 1855. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

*Receipt of Stolen
Property, knowing
it to be Stolen.

Prisoner.—Sukarambhut bin Mahadoobhut, Brahmin, aged 35.

Charge.—Receipt of stolen property, knowing it to be stolen (Regulation XIV. Section XLI. of A. D. 1827); in having, the exact date not known, but about the month of February 1854, (corresponding with Magh, Shuké 1775,) had in his possession seven strings of one gold 'ghope' or chain, two strings of another gold ghope or chain, and some strings of an octangular-beaded gold 'khuntée' or necklace, knowing them to have been stolen, without giving notice to any public Officer.

A. W. Jones,
Session Judge.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with the receipt of property, knowing it to be stolen, and pleads not guilty.

The property which the prisoner is charged with hav-

ing had in his possession, knowing it to have been stolen, consists of two strings of a gold chain (ghope), some strings of a gold octangular-beaded necklace, and a necklace of seven strings of a gold chain (called ghope) with a gold clasp or fastening. These the prisoner declares are his own; there is, therefore, no question as to his having had possession of them.

The evidence that they were stolen is furnished by witness No. 2 (Rugoonath Shetee), the uncle of Ramshet Kulup, of Mapsee; and he describes how the approver (Sheodyal) and his party managed, about the month of February of last year, to swindle his uncle out of some money, and ornaments worth about Rs. 8,000, and he identifies all these three articles as having been among the property of which his uncle was thus defrauded.

Then the approver Sheodyal describes this fraud also; and he proves that when the Bhar party, engaged in the affair at Mapsee, assembled at Neepanee on their return home, he obliged Pursram, who had had charge of the plunder gained in it, to give him his share, which consisted, among other things, of two strings of ghope chain and some strings of an octangular gold-beaded necklace, both of which were then broken up, and his share in which were given up to the Police, as his property, by his mistress, Luxmee, when her house was searched, and these articles were shown before the Court by two Shroffs to be exactly of the same fineness of gold and pattern as those found in the prisoner's house.

It is then shown by a pawnbroker of Poona that he is in the habit of receiving in pawn articles from Sukaram and his father Mahadoo, and that in the Magh Wud 10th he received the two strings of ghope, and the strings of the gold-beaded necklace in pawn from Sukaram, as shown by the entry in his accounts and by a 'yadee' in Sukaram's handwriting.

And he also shows that these articles were redeemed

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by Sukaram's father in Jésh, that is, after his son Sukaram, as is shown by Naghoo the Havildar of Poona Police, had been arrested.

And, finally, it is shown that later still they were found concealed in a hole made on the top of a wall of the house where Sukaram and his father live.

Now, although these articles are not of a very peculiar form or pattern, yet, considering they are identified as parts of ornaments belonging to Kulup Shetee, by Rugoonath Shet, and that this is supported by the evidence of the Dharwar Shroffs, who depose to their being of exactly the same touch and pattern as others which the approver's evidence leaves no doubt were obtained in the Mapsee case, so that they evidently belong to the same ornaments; that it is also shown the prisoner himself pawned them in Poona, and that after his arrest they were redeemed by his father, and that they were subsequently found in his house in a place which proves they were intentionally concealed for him; and that, finally, although he states they are his own, he offers no proof whatever of it; the Session Judge thinks the evidence is sufficient to establish the charge against the prisoner.

With regard to the other articles mentioned in the charge, the only evidence is that of Rugoonath Shet, and that is insufficient alone to prove it is the property of Ramshet.

The prisoner is therefore convicted of the receipt of property, knowing it to have been stolen; in having, the exact date not known, but about the month of February 1854, (corresponding with Magh, Shuké 1775,) had in his possession two strings of a gold ghope or chain, and some strings of an octangular-beaded gold khuntée or necklace, knowing them to have been stolen, without giving notice to any public Officer.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation

XIV. of 1827, Section XLI., the following sentence is passed :—

That you, Sukaram Bhut bin Mahadoo Bhut, be imprisoned and kept to hard labour for two (2) years, and then pay a fine of five hundred (500) rupees, or be imprisoned for a further period of two (2) years with hard labour.

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it to be Stolen.

Resolution of the Sudder Foujdaree Adawlut.—The Court having sent for the whole of the proceedings at the Vakeel's request, the Vakeel cannot now show any cause for interference with the Session Judge's decision, and the petition is rejected.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 127 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Third Assistant Magistrate, G. W. ELLIOT, on the 6th September 1856. Tried by the Assistant Session Judge, J. R. ARTHUR, on the 13th and 15th September 1856. Reviewed by the Session Judge, A. W. JONES, on the 20th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Sidoo Apajee, Brahmin, aged 25.

Forgery.

Charge.—Forgery (Regulation XIV. of 1827, Section XVII. Clause 1st); in that he did, on or about the 2nd August 1854, (corresponding with Shrawun Shood 8th, Shuké 1776,) fabricate a document, purporting to be a 'razeenama,' by which Busapa and Sewana, inhabitants of Moorkibhavee, in the Sumpgaum Talooka, petitioned Government to be allowed to resign a field within the limits of the said village, to which petition the marks testifying the assent of these persons were attached; whereas the document was drawn up by the said Sidoo with a fraudulent purpose, and without the knowledge and consent of these persons.

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Forgery.

J. R. Arthur,
Acting Assistant
Session Judge.

Finding and Sentence by the Sessions Court.—Prisoner is charged with forgery, and pleads not guilty.

Prisoner admits that the document alleged to be forged is in his handwriting. It would have been better had other evidence on this point been taken ; but as there appeared no probability that prisoner would abandon the line of defence he took up before the Magisterial Authorities, the Court did not deem it advisable to delay the case with the view of procuring the presence of witnesses. Prisoner states, that the case has been got up against him through enmity ; there is, however, nothing in the evidence before the Court to show that the principal witnesses in the case, viz. Busapa and Sewana, are ill-disposed towards him. It is very evident that they had no knowledge of Shreeniwas having acquired a title to the field till long after the razeenama had been drawn up, and it also is apparent that they have continued in possession of the land, whether actually cultivating or sub-letting, up to the date at which this investigation was commenced. Now, had Shreeniwas obtained the land, he would undoubtedly have taken possession of it. The fact of his not having done so is the strongest circumstantial evidence that no razeenama was given, that is, that the document now before the Court was fabricated. Prisoner's defence is that a correspondence took place with the District Police Officer, all of which passed through the hands of the Patel, and that he therefore must have been aware of what was going on. The Patel's explanation of this matter, however, appears satisfactory, and it seems by no means improbable that he should have signed reports, trusting to the Koolkurnee's representations, without otherwise making himself aware of their contents ; but, even supposing the Patel had knowledge of what was going on, the only inference to be drawn would be, that he was party to any fraud of which the Koolkurnee might have been guilty.

The Court cannot regard the Mamlutdar's 'shera,' regarding the examination of Busapa's receipt-book, as satisfactory evidence, as it is aware of the careless and hurried manner in which such examinations are frequently conducted. One of the alleged attesting witnesses to the bond, indeed, gives evidence in prisoner's favour, inasmuch as that he says that he signed the razeenama in the presence of the persons concerned ; but his evidence does not tally with prisoner's, regarding the document having been written in his presence. There is then the positive testimony of Busapa, and Sewana the Patel, and Sewaraya, to the effect that this razeenama was not written with their consent and knowledge or in their presence, and the indirect but no less conclusive testimony arising from the fact of Busapa's continued possession, all tending to show that the document is a forged one ; and to counteract the conclusion to which these facts necessarily lead, no argument of any weight has been adduced on prisoner's behalf. The Court, therefore, cannot but deem prisoner guilty of the offence with which he is charged, and convicts him of forgery ; in that he did, on or about the 2nd August 1854, (corresponding with Shrawun Shood 8th, Shuké 1776,) fabricate a document, purporting to be a razeenama, by which Busapa and Sewana, inhabitants of the village of Moorkibhavee, petitioned Government to be allowed to resign a field within the limits of the said village, to which petition the marks testifying the assent of these persons were attached ; whereas the document was drawn up by the said Sidoo with a fraudulent purpose, and without the knowledge and consent of these persons.

The sentence of this Court is that you, prisoner Sidoo Apajee, undergo twelve (12) months' imprisonment with hard labour, and solitary confinement for the space of two (2) months, viz. one previous to, and one at the completion of the term of ordinary imprisonment.

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 A. W. Jones,
 Session Judge.

* *Reviewed by the Session Judge.*—The Session Judge thinks it would have been better to have called for some further evidence as to the continued possession of Busapa and Sewana, such as that of their under-tenants, who are alluded to by the Patel Roodra, for it seems that this Roodra and his relation Sewaraya have both made petitions against the prisoner, and are not therefore likely to be quite impartial. As, however, the prisoner did not call any evidence to prove the occupation and possession of his uncle, to whom the document forged purports the field to have been resigned, the Session Judge sees no reason to interfere with the conviction or sentence.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report with regard to petitioner's assertion that there were several cases got up against him through the enmity of certain parties, none of which were proved but this one.

Return by the Magistrate.—In returning this Precept and the petition which accompanied it, the Magistrate of Belgaum has the honour to report that it appears that several charges have been brought against the petitioner Sidoo Apajee, regarding which the following report has been submitted by the Second Assistant Magistrate, Mr. H. Erskine :—

On the 23rd April 1855, Sewaraya Poojaree and Busapa, two inhabitants of the village of Moorkeebhavee, sent a petition to the Assistant Magistrate then in charge of Sumpgaum Talooka, containing ten distinct charges against Sidoo. They were as follows :—

1st.—That Sidoo had obtained Rs. 20 from Wakoond Busapa, on the pretence that, on the receipt of that sum, he would enter Busapa's name for a Chakaree Inam field that had been held by his (Busapa's) father.

2nd.—That Sidoo obtained Rs. 8 from one Dod Naik by persuading him that he would, if that sum was given him, get the rent of his (Dod Naik's) field reduced.

3rd.—That he extorted Rs. 2 from Modagre Tamana, by threatening to have him fined for keeping the road near his house dirty.

4th.—That he obtained Rs. 11 from Kalapa, by offering for that sum to enter his (Kalapa's) name for a field which he had previously cultivated as sub-tenant to Balapa.

5th.—That Sidoo had sent his servant to the Kutcheree to purchase stamped papers in the name of three parties, Sewaraya, Busapa, and Mudia, without their knowledge, for the purpose of forging papers in their name.

6th.—That Sidoo took the instalments from the Ryots and refused receipts, and also sometimes accepted large sums and gave receipts for small ones.

7th.—That he made Sawulgee Siwalingia pay him, on the death of his father, Rs. 4, before he would enter his name for a field assessed at four annas.

8th.—That he extorted Rs. 5 from Jader Lakana in the same way.

9th.—That he obtained Rs. 5 from Holee Beema, by telling him he would, if that sum was given him, send back to Beema his wife and children who had deserted him.

10th.—That he obtained Rs. 10 from Beelia Malaree by persuading him he would for that sum give him (Beelia) a share in a field held by his brother.

On the 24th November 1855, Mr. Elliot ordered that an inquiry should be made regarding the truth of the above charges; and on the 31st January 1856 the Sumpgaum Police Amuldar returned the petition with depositions, &c. showing the particulars of all the charges, except No. 5. He then gave it as his opinion that there was not sufficient evidence to prove the charges, and, at the same time, he added that it appeared there was enmity between the Patel and Koolkurnee (Sidoo) of the village, and that the latter had brought forward charges against

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the former that were proved untrue, and was altogether not a man of good character.

After examining the papers, Mr. Elliot, on the 11th March, informed the Police Amuldar that further inquiry was useless.

Regarding the 5th charge, a separate report was made by the Police Amuldar on the 31st January 1856. He said it appeared that the Patel, Erapa, had been informed by one Gowdapa that the Koolkurnee, Sidoo, was conspiring against him, and had forged papers to bring him (Gowdapa) into trouble. He added, further, that he had been informed by one Kureebusya, that the Koolkurnee intended sending these papers next day to Huneekery. The Koolkurnee's uncle was accordingly seized the next morning when leaving the village and searched, when two papers, one a bond on stamped paper, binding Gowdapa to pay the sum of Rs. 50 to Sewaraya, were found. These were sent to the Kutcheree, when an investigation was made, and the whole of the papers were then forwarded to Mr. Elliot, who, on the 23rd February, decided that further inquiry was unnecessary; at the same time Mr. Elliot recorded it as his opinion that there were many reasons leading him to suppose that the Koolkurnee, Sidoo, was a man of bad character, and that, in the event of his misbehaving in any way, he would recommend his dismissal.

On another occasion there was an investigation made into this Sidoo's conduct. He reported to the Police Amuldar (date not mentioned) that the Patel of the village, Erapa, and his son, had knocked a man off his bullock and killed him. On inquiry this was found to be false, and Sidoo was tried by Mr. Elliot for conspiracy; but he was acquitted, as it appeared Sidoo had only stated that he had heard Erapa and his son had acted as he described. The proceedings of this case, with the Koolkurnee's report, &c. were forwarded to you with the

Criminal Return for February 1856,—the Case No. 6 of 1856.

The only other charge brought against the Koolkurnee, Sidoo, was the one (forgery) on which he was convicted before the Sessions Court, and for which he is now in confinement.

The delay of one day beyond the time allowed in the Precept has been caused by a reference having been necessary to the Second Assistant.

Resolution of the Sudder Foujdaree Adawlut.—Petition is rejected.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Petition from Sowlajee Gunesh to the Sudder Foujdaree Adawlut. AHMEDNUGGUR.
Referred to the Magistrate of Ahmednuggur, C. E. F. TYTLER,
on the 13th November 1856, for report.]

Prisoner.—Sowlajee Gunesh, Khustee Brahmin, aged 30.

Notorious Bad
Character.

Charge.—Notorious bad character.

Finding and Sentence by the Assistant Magistrate.— J. W. Henry,
The prisoner, in about the year 1852, laid a claim to the Assistant Magistrate.
amount of Rs. 134-1-3 against one Abdool wulud Mee-
yabhaee, which, on being investigated by Mr. Cameron,
Assistant Judge, was found to be all false. That Officer
then recorded an opinion that the cash accounts of the
complainant were not to be depended on, and dismissed
the case as being one of conspiracy. Again, in the year
1855, the prisoner was committed to the Sessions Court
on two charges of forgery, on which he was acquitted
for want of sufficient proof. In the month of June 1856,
however, the Session Judge, in a Murathee 'yad' No. 38,
brought the conduct of the prisoner to the prominent
notice of the Superintendent, requesting that he and
others, on whom rested the gravest suspicion of forgery,

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might be kept under surveillance of the Police, as that crime was becoming alarmingly prevalent in Ahmednug-gur. On this the Superintendent of Police had the prisoner looked after day and night by the Police, against which he appealed to the Magistrate, who directed that, for the prevention of the offence of which he was under suspicion, security should be taken for his conduct, under Regulation XII. of 1827, Section XXV. The amount required (Rs. 300) not being forthcoming, the Assistant Magistrate referred the case to the Acting Magistrate, who ordered that a less sum should be demanded, failing the furnishing of which, the prisoner was to be sent to jail under Regulation XII. Section XXVII. of 1827.

The sum of Rs. 200 now required not being forthcoming, agreeably to the above order, the Assistant Magistrate directs the prisoner to undergo (1) one year's imprisonment, under the Regulation above quoted.

Petition from Sowlajee Gunesh to the Sudder Foujdaree Adawlut.—[Praying that the sentence passed against him might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Magistrate.—The Magistrate has the honour to report that the matter set forth in the accompanying copy of petition from Sowlajee Gunesh is fully explained in the proceedings of the Assistant Magistrate herewith submitted.

There is no ground for supposing that the enmity of the Moonsiff could, as stated in the petition, have anything to do with the precautionary measures adopted by the Superintendent of Police.

The substance of the petition is, that petitioner bears an unblemished character, and, consequently, that security should not be required of him. The Judges will be able to decide from the facts stated in the proceedings, whether the precautionary measures taken by the Assist-

ant Magistrate are justified by the suspicion resting on prisoner.

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There is reason to believe that the crime in question (that of making false bonds) is very common. The poorer classes suffer much from the usurious practices of Shroffs and money-lenders, and the law as it now exists is wholly on their side. But when to this is added the further evil of fabricating bonds, there is, the Magistrate respectfully thinks, strong grounds for interference.

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The proceedings may be returned when no longer required.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—[Calling for a report.]

Return by the Session Judge.—The Session Judge begs to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that a number of cases have come before him, in which he found that the petitioner, together with several other persons, forged documents and suborned witnesses, and thus ruined many poor persons; that the petitioner and his associates were several times criminally prosecuted, but escaped punishment for want of sufficient proof, although strong suspicion rested on them; the Session Judge therefore, deeming it necessary that the Police should have an eye upon them, addressed a yad, under date the 23rd June 1856, to the Superintendent of Police, and, at the same time, furnished him with copies of decrees, in which the conduct of the petitioner, &c. was noticed as suspicious. At the request of the Superintendent of Police he was further furnished with copies of the reports made by the Assistant Judge and one of the Hoozoor Moonsiffs, detailing the several instances in which they had discovered the misdeeds of the petitioner.

The Judge has since, during the trial of an appeal, met with another instance of fraud on the part of the

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petitioner, which, however, has not been brought to the notice of the Superintendent of Police.

The delay in the return of this Precept was caused by the Judge being on circuit into the Districts. The petition is herewith returned, as directed.

Precept issued to the Magistrate.—The Court do not see in what terms the petitioner is to enter into security. The Magistrate is to be requested to certify the bond or the purport of it.

Return by the Magistrate.—The bond required in the extract which accompanied this precept is herewith forwarded.

Precept issued to the Magistrate.—The Magistrate is to be informed that the information required by the Court was in what terms the prisoner was required to furnish security, and with that view they desired the bond proposed to be taken from him to be certified, or its purport detailed. The supposed forged bond which the Magistrate has certified is therefore returned, and the Magistrate is requested to furnish the above information.

Return by the Magistrate.—In returning this Precept duly executed, the Magistrate has the honour to report that the purport of the bond proposed to be taken from Sowlajee Gunesh by the Superintendent of Police was as follows:—

That Sowlajee Gunesh should give security to the extent of Rs. 200 (in default thereof one year's imprisonment) to abstain from fraud in the fabrication and use of forged papers, and to be of good conduct for the space of one year, and that, failing to furnish the security demanded, he (Sowlajee Gunesh) should be imprisoned for one year.

The delay in replying to this Precept has been caused by the non-receipt of the papers from the Superintendent and Session Judge.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not consider this a case contemplated in Section XXV. Regulation XII. A. D. 1827, and, therefore, annul the order for security, and direct the prisoner's release.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 26 of the Criminal Return of the Magistrate of Poona for December 1856. Tried by the Assistant Magistrate, W. M. COGHLAN, on the 24th November 1856. Reviewed by the Magistrate, D. DAVIDSON, on the 4th December 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Marootee bin Baloojee.]

POONA.

Prisoners.—No. 1, Marootee bin Baloojee, Koonbee, aged 35.

2, Babajee bin Baloojee, Koonbee, aged 30.

3, Narayen bin Bulee Towrey, Koonbee, aged 30.

Abuse and Mis-
application of Au-
thority as a Police
Patel; and Fraud.

Charge.—Against prisoner No. 1 (Marootee), abuse and misapplication of authority as a Police Patel (Regulation XII. of 1827, Section VIII. Clause 1st); in that, on or about the 2nd day of October 1856, (Mitee Ashwin Shood 3rd, Shuké 1778,) at the village of Sangwee, Talooka Indapoor, Zillah Poona, he, the aforesaid prisoner (Marotee), being the lawfully appointed Police Patel of the said village of Sangwee, did, on the death of one Mankoo Goosa, omit to take the proper steps for the preservation of the property of the deceased, and did fraudulently appropriate to himself three bonds, value Rs. 24-0-0, the property of the said Mankoo.

Against prisoners Nos. 2 and 3 (Babajee and Narayen) fraud (Regulation XIV. of 1827, Section XL.); in that, on or about the 2nd day of October 1856, (Mitee Ashwin Shood 3rd, Shuké 1778,) at the village of Sangwee,

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POONA.

Abuse and Mis-
application of Au-
thority as a Police
Patel; and Fraud.

Talooka Indapoor, Zillah Poona; they did unlawfully appropriate a part of the property of one Mankoo Goosa, who died at Sangwee on the 2nd day of October 1856, by fraudulently taking to themselves goods as follows:—

Grain to the value of Rs. 6-0-0

Iron pots, &c. value of „ 1-9-2

Altogether „ „ Rs. 7-9-2

Prisoners plead not guilty.

W. M. Coghlan,
Assistant Magis-
trate.

Finding and Sentence by the Assistant Magistrate.—

In this case prisoner No. 1 (Maroottee), a Police Patel, of some years' service, is charged with misapplication of Police Authority; in that, on the death of a certain Mankoo Goosa, he not only did not make the proper arrangements for the preservation of his property, but did appropriate to himself bonds to the value of Rs. 24. The proceedings of the Police Amuldar are exceedingly voluminous, much evidence having been taken which was of no use. The case is very simple. Mankoo, a man of some wealth, died on October 2nd, 1856, having no blood-relation in the village. The Police Patel, according to his own showing, instituted no inquiry into the cause of deceased's death, but made a report to the Police Amuldar, stating that he would not burn or bury the body until he received his order to do so; but notwithstanding this, he had the body buried on the evening of the day of death, without having received a reply from the Police Amuldar. On the relations and friends of deceased making inquiry as to what had become of his property, a search was instituted, and three bonds, to the value of Rs. 24, were found in the house of the Police Patel (prisoner No. 1). Prisoner states that the bonds must have come into his possession accidentally; beyond this he offers no explanation about them. He calls several witnesses to prove that he is the

victim of a conspiracy got up against him by one Mankoo Ningatrow and others, but on cross-examination they tell completely different stories about the matter. The Assistant Magistrate is of opinion that the charge set forth in the indictment is fully proved against prisoner No. 1.

Against prisoner No. 2, the Moolkee Patel of Sangwee, who is charged with having, together with Narayen (prisoner No. 3), appropriated fraudulently a portion of the goods of the deceased Mankoo, there is no trustworthy evidence. The Assistant Magistrate therefore dismisses the case against him.

Narayen (prisoner No. 3) is charged with having appropriated a portion of the deceased's (Mankoo's) goods, to the value of Rs. 7-9-2. It is satisfactorily proved, by the evidence of witnesses Nos. 10, 13, 15, 16, and 14, that he took the said goods, and placed them in the house of one Rawajee Kudum. Prisoner confesses to having taken two iron bars, which, he states, had been given him by Gunga; but he brings no evidence to support the assertion. The Assistant Magistrate considers that the charge set forth in the indictment is fully proved against prisoner No. 3.

Marootee (prisoner No. 1) is sentenced to be imprisoned for three (3) months with hard labour, and to pay a fine of forty (40) rupees, or to be, in default of payment, imprisoned for a further period of two (2) months with hard labour. (Regulation XII. of 1827, Section VIII. •Clause 1st.)

Babjee (prisoner No. 2) is discharged. Narayen (prisoner No. 3) is sentenced to be imprisoned with hard labour for one (1) month, and to pay a fine of twenty (20) rupees, or to be imprisoned for a further period of one (1) month with hard labour. (Regulation XIV. of 1827, Section XL.) •

The disposal of the goods before the Court is left to the Civil law.

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POONA.

Abuse and Mis-
application of Au-
thority as a Police
Patel; and Fraud.

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thority as a Police
Patel; and Fraud.

D. Davidson,
Magistrate.

The sentence against prisoner No. 1 is subject to confirmation by the Magistrate. (Regulation IV. of 1830, Section III., and Circular Order of Government, No. 2290 of 1853.)

Review by the Magistrate.—The Magistrate is unable to confirm the above sentence.

The only specific act charged against prisoner No. 1 is that he stole three bonds. He ought not to have been charged under Regulation XII. Section VIII. with this offence, to which another Regulation applies.

But there is no proof whatever that he stole the bonds. Witnesses Nos. 10 and 13 appear entirely unworthy of credit, and to have been themselves most suspiciously concerned with deceased's property. No. 10 is the party who says she found the bonds in prisoner's premises, which she may just as probably have placed there herself as not.

Prisoners Nos. 2 and 3 are charged under Regulation XIV. Section XL., which is totally inapplicable, having regard only to entrusted property withheld fraudulently: they, too, ought to have been charged with robbery.

No. 2 has been discharged for want of proof. Against No. 3, in addition to the unworthy witnesses Nos. 10 and 13, the Assistant Magistrate specifies No. 14, who is the wife of No. 13, perhaps screening her husband, and No. 16; but without due corroboration their evidence amounts to nothing, and is not inconsistent with prisoner's statement of his innocence. No. 15 is also mentioned by the Assistant Magistrate; but there is not, in the record of his evidence by the Assistant Magistrate, mention of this prisoner's name even. Altogether the Assistant Magistrate's finding is defective.

The Magistrate cannot help noticing the extremely bad manner in which this case has been investigated. The District Amuldar should be called to account.

There is a great deal of irrelevancy which the

Assistant Magistrate should not have permitted to enter his proceedings; also the English and Murathee are at variance; and such a state of matters makes the work of review most unsatisfactory and difficult. When the Assistant Magistrate found such a mass of confusion sent to him, it would have been far easier, both for himself and for the Magistrate, to take fresh depositions confined to the points to be proved.

The Police Patel appears guilty of neglect of duty.

The whole sentence is annulled, except a fine of Rs. 15 against prisoner No. 1, or, in default, two months' imprisonment without hard labour.

Resolution of the Sudder Foujdaree Adawlut.—The Court see no cause for interference, the petitioner having apparently been punished Departmentally for misconduct as a Police Officer.

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POONA.

Abuse and Mis-
application of Au-
thority as a Police
Patel; and Fraud.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition from Sheik Whaid wulud Sheik Bakur to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Broach, C. J. DAVIES, on the 11th February 1857, for report.]

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BROACH.

[See pages 137 to 149, Vol. III. of 1855, for previous proceedings in this case.]

Petition from Sheik Whaid wulud Sheik Bakur to the Sudder Foujdaree Adawlut.—[Praying for an order to the Magistrate of Broach to pay him Rs. 306, which belonged to his deceased brother.]

Claim to the
Property of a de-
ceased Brother.

Precept issued by the Sudder Foujdaree Adawlut to the Session Judge.—The Session Judge is to be requested to certify copy of his English proceedings.

Return by the Acting Session Judge.—In return to the within Precept, it is hereby certified that the English proceedings herein called for were forwarded to the Court of Sudder Foujdaree Adawlut, under date the

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ceased Brother.

2nd December 1854. The correspondence on the matter set forth in the petition herewith received having been carried on in Guzerathee, the Acting Session Judge has the honour to certify a copy of the same to the Court.

The original petition is returned as directed.

Precept issued to the Magistrate.—[Calling for a report.]

Report by the Magistrate.—The Magistrate has the honour to report, that on the evening of June 10th, 1854; the house of one Moosaf Bakur (petitioner's brother) was found open, and Moosaf himself was missing. On the morning of the following day his body was found in a well. It appeared not improbable that his house had been robbed, among other property, of about Rs. 2,000 in cash.

One Mulik Amir Kudwa was apprehended and committed for trial before the Sessions Court, on suspicion of having committed this murder. From the Magistrate's proceedings, and the defence before the Sessions Court, the grounds of suspicion against him appear to have been that Moosaf Bakur was seen at several places by several persons in his company on the morning of the 10th; that Moosaf was last seen in his company near the very place where Moosaf's body was subsequently found; that one Sirdar Khan deposed to having met the prisoner about 2 P. M. on the 10th, coming from the direction of Moosaf's house with a bundle under his arm; that the prisoner paid on the 11th a debt of Rs. 75, and did not satisfactorily show how he had got the money to pay it; and that a bundle containing some money was found concealed in the house of Mulik Moosaf Mustoo, prisoner's uncle, which neither Mulik Moosaf nor his wife could account for, and which they stated was not theirs; and they, moreover, professed ignorance as to who had placed it in their house.

The money found in Malik Moosaf Mustoo's house

was kept for some time in deposit, pending the appearance of any one who could set forth a satisfactory claim to it; and, finally, the late Magistrate ordered it to be carried to account as a Judicial receipt. More than a year after this had been done, the deceased Moosaf Bakur's brother, the present petitioner, presented a petition claiming this money, on the ground that it belonged to his deceased brother. On the 27th December last the Magistrate rejected this petition, on the ground that up to that date the petitioner had failed to substantiate his claim. Against this order Shaik Whaid now appeals. It is just possible that the money in question may have been stolen by Mulik Umir from the deceased, but there certainly does not appear to be any proof of it. It is not even certain that deceased was robbed. One Sara deposes that on the morning of the 10th she asked deceased to lend her ten pice, and that he replied that he had got rupees but no pice, and that he then showed a pot half full of rupees. The present petitioner deposed that "he could not say what might have been stolen from the house, as his deceased brother never showed him his property; but there is a balance of more than Rs. 2,000 in his 'chopra,' which sum is not to be found"; and he also states that people were in the habit of pawning things to his brother, and none of these are to be found. The late Magistrate further entered in his proceedings, "Complainant cannot recognise any of the articles now shown to him as being the property of his brother, as his brother never showed his property to him." The abovementioned Sirdar Khan deposed that a 'roomal' shown to him (apparently the one in which the money was found) was *not* the one in which the bundle which he had seen the prisoner carrying was tied up, though it was of a similar dark colour; and he added, that he did not know what the bundle he had seen in the prisoner's possession contained.

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ceased Brother.

Return by the Magistrate.—The Magistrate of Broach has the honour to forward separate reports, in English and Guzerathee, as required in the within Precept. This Precept is therefore returned (with the Guzerathee petition) duly executed.

Resolution of the Sudder Foujdaree Adawlut.—Petitioner informed that the Court see no cause to interfere with the Magistrate's order regarding the money. If he can establish his claim to the property as his brother's, he might bring a Civil action.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

RUTNAGHERY. [Petition of Yeknath bin Yeshett to the Sudder Foujdaree Adawlut.
Referred to the Officiating Magistrate of Rutnagherry, W. J.
TURQUAND, on the 5th February 1857, for report.]

Failing to Fur-
nish Security.

W. D'Oyly, First
Assistant Magis-
trate.

W. J. Turquand,
Officiating Magis-
trate.

Prisoner.—Yeknath bin Yeshett.

Charge.—Failing to furnish security required of him.

Decision by the First Assistant Magistrate.—On reading over the proceedings forwarded by the Police Amuldar, and questioning two of the witnesses, it appears that there is no proof against the prisoner. Of the property found upon him, the coin (silver and copper) is of course not capable of identification, and the identification of the three bits of gold is not satisfactory; they are merely small round lumps, of such form as gold would usually assume when melted. Until the gold was found on the prisoner the prosecutor did not state that such pieces of gold were among the stolen property; and, from the evidence, the Assistant Magistrate thinks it more probable that the pieces of gold are parts of ornaments which have been melted up by the prisoner since the theft, than that they were stolen in their present state. The paper in

which the gold is wrapped is written on slightly, and if the writing could have been identified it might have brought home the theft, but it is not. The charge is therefore not proved against the prisoner. There is, however, very strong suspicion against the prisoner; he cannot account satisfactorily how he came by the gold; his account is absurd; and contradicted by other evidence. He is a known bad character; has before been arraigned for theft, and has before been ordered to find security for future good conduct for a period of one year, on account of the suspicious circumstances which were then proved against him. He is therefore now ordered to find security of five hundred (500) rupees for future good conduct for five (5) years, in default one (1) year's imprisonment. (Regulation XII. Section XXV. of 1827.)

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nish Security.

Further Decision by the First Assistant Magistrate.—The prisoner, Yeknath bin Yeshett, caste Wanee, aged 22, business merchant, inhabitant of Rajapoor, Talooka Viziadroog, was forwarded to the Acting First Assistant Magistrate, charged with robbery by night without force. On reading over the proceedings of the Police Amuldar, it did not appear to the Acting First Assistant Magistrate that the charge could be proved against the prisoner. It was, however, one of those cases in which a suspicion amounting to almost a certainty attached itself to the prisoner; he is also a known bad character; he was therefore ordered under Regulation XII. of 1827, Section XXV. to find security of Rs. 500 for future good conduct for five years, in default one year's imprisonment. The prisoner was returned to the Police Amuldar of Rajapoor, as he stated that he could find the security required. He is again forwarded to the Acting First Assistant Magistrate, as not being able to find the security required. On being questioned, however, by the First Assistant Magistrate, he states that his father will stand

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 nish Security.

security for him ; that his father was not asked in his presence, although he gave his name to the Police Amuldar as one of those who would stand security. As the order of the Acting First Assistant Magistrate regarding taking security from the prisoner appears to have been imperfectly carried out, the prisoner is of necessity again returned to the Police Amuldar, in order that, if possible, he may find proper security.

Further Decision by the First Assistant Magistrate.—The prisoner is again forwarded to the Acting First Assistant Magistrate, and now states that his father will not stand security for him, and that he cannot find proper security. Taking into consideration, therefore, that his nearest relations (excepting his brother, who is stated by the Police Amuldar to be unfit) have not sufficient confidence in the prisoner to stand security for him, that he cannot find other security, the suspicions against him as shown in the late investigation, and his well-known bad character, he is ordered, under Regulation XII. of 1827, Section XXV. to remain in the Rutnagherry Jail for a period of one (1) year, at the expiration of which period he is to be forwarded to the Magistrate, in order that precautionary measures may be taken with regard to him. This order is subject to the confirmation of the Officiating Magistrate.

Petition from Yeknath bin Yeshett to the Sudder Foujdaree Adawlut.—[Praying that the sentence passed against him might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report as to the necessity for taking security.

Return by the Officiating Magistrate.—The case in which petitioner was ordered to furnish security was one of robbery by night, without force. There was no absolute proof against him, but a suspicion amounting to almost a certainty attached to him. Petitioner is also a

known bad character: he was twice before brought up for robbery, and security was taken from him for good conduct for one year in January 1854. Taking also into consideration that prisoner's nearest relatives have no confidence in him to stand security for him, he, on failing to find security in the sum of Rs. 500 for future good conduct for five years, was committed to Jail for one year, after which period precautionary measures will be again taken with regard to him, if necessary. The Officiating Magistrate is of opinion that to liberate this man now would be injurious to the community.

The Murathee petition is herewith returned.

Further Precept issued to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings.

Return by the Magistrate.—The papers and proceedings are herewith forwarded.

Resolution of the Sudder Foujdaree Adawlut.—The security is reduced to Rs. 200.

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RUTNAGHERRY.

Failing to Furnish Security.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 149 of the Calendar of the Ahmedabad Sessions Court for 1856. Committed by the District Deputy Magistrate, RUGHONATH RAMCHUNDER, on the 17th November 1856. Tried by the Session Judge, A. B. WARDEN, on the 24th January, 2nd February, and 17th March 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

AHMEDABAD.

Prisoner.—Kusoojee Ramajee, Thakara Kolvee, aged 35. Wilful Murder.

Charge.—Wilful murder; in having, on or about Wednesday, 5th November 1856, (corresponding with Kartik Shood 8th, Sumvut 1913,) in the village of Bhunkara, Veerumgaum Talooka, Ahmedabad Zillah,

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purposely, and without justifiable or extenuating cause, inflicted two wounds with a sword, one on the wrist, and the other on the shoulder, of his wife Jusbaee, aged 25 years, from the effects of which the said Jusbaee died on or about the 4th of January 1857; prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoner pleads not guilty.

A. B. Warden,
Session Judge.

Finding and Sentence by the Sessions Court.—From the Inquest Report, which has been recorded as No. 3, and proved by the evidence of the witnesses Nos. 1 and 2 (Baie Manoo and Veerwow), it appears that the deceased had received two wounds, one on the wrist and the other on the shoulder; the latter was so deep as to nearly sever the arm from the body. The members of the Inquest, on being cross-examined, deposed that the wound on the shoulder was so situated that the deceased could not by any possibility have wounded herself. The evidence of the Hajam, Unda (witness No. 4), who dressed the wounds of the deceased, fully corroborated the evidence of the members of the Inquest; and he stated in addition that the shoulder mortified, and the deceased died at the end of two months, and he attributed her death to the wound on the shoulder. The witness No. 5 (Jussa) has deposed that, about 9 A. M., as he was passing the house of the prisoner, he heard a child crying, and on going up to the door and peeping through a crevice saw the prisoner's wife lying on the ground, and the prisoner standing near her with a naked sword in his hand; he observed blood on the ground and on the woman's clothes; he also saw the prisoner's son, Huzoorsung, standing near the woman and crying. This witness's deposition is corroborated by that of the witnesses Nos. 6 and 7 (Gobur and Jewa); the latter, however, has stated in addition that he called to the prisoner to open the door, but prisoner refused;

he then tried to push open the door, but could not, because it was fastened on the inside. The witness No. 8 (Huzoorsung), son of the prisoner, a boy about ten years old, deposed that his father (the prisoner) and his mother (the deceased) had an altercation, because his mother wanted to go with her uncle, who had come to fetch her, and his father (the prisoner) refused to let her go; the uncle therefore went away, and after his departure the prisoner fastened the door (this was in the evening). The next day, while his mother was sitting near the cradle of her youngest child, the prisoner took down a sword from the wall, and, having unsheathed it, wounded the deceased twice with it; he then washed the sword, and, having put it into the sheath again, hung it up against the wall; he then seated himself by his wife and began to cry, and with a cloth brushed the flies off her. The evidence of the deceased, which has been proved by the evidence of the witnesses Nos. 12 and 13 (Govindjee and Kesowlal), and which was taken in the presence of the prisoner, is to the same effect as that of her son (the boy Huzoorsung), with the exception that the prisoner wounded her immediately after her uncle's departure, whereas the boy has stated that his father wounded his mother the following day. The Court wished to have taken the uncle's evidence, and he was summoned, but on his way to Ahmedabad he ran away from the Sowar who had charge of him, and the Political Agent of the Myhee Kanta writes that he has not returned to his village and cannot be found. The deceased, when her deposition was being taken, pointed to the prisoner, and said that he (her husband) had wounded her; she also told the Hajam who dressed her wound that the prisoner had wounded her. The witnesses Nos. 9 and 10 (Jalimsing Havildar and Jamajee Sepoy) have deposed that, on repairing to the house of the prisoner, in consequence of information which they had received, they found the

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door fastened ; on looking through a crevice in the door they perceived the prisoner sitting by his wife and fanning the flies off her. Prisoner, on being desired to open the door and let them in, as they were Government servants, did so, and they at once seized the prisoner and possessed themselves of the sword that was hanging up against the wall. They examined the sword but could observe no marks of blood ; the blade was, however, jagged in one or two places ; the prisoner was in a very excited state. The Court can place no dependence on what the Havildar Jalimsing has stated regarding the admission made by prisoner when being taken to Vee-rumgaum, for the Havildar before this Court declared that the prisoner admitted having wounded his wife, whereas, in his former deposition, he stated that the prisoner on the road to Veerumgaum merely admitted that he had had a quarrel with his wife (the deceased), but that she had wounded herself. On the difference between his two statements being pointed out to him, he pretended that he was suffering from fever when he gave his deposition before the Police Authorities, and therefore did not remember all that the prisoner had said. The Court severely reprimanded him for not adhering to the truth, and told him that it would report him to the Superintendent of Police ; but, in the hope that he would not again misrepresent the statements made by prisoners, the Court would not recommend his being dismissed this time. The prisoner, while admitting that he had an altercation with his wife because she wanted to go with her uncle, denies that he wounded her, and wishes the Court to believe that she wounded herself ; but not only his wife's statement and that of his son prove that he wounded her, but the wound on the shoulder, as described by the members of the Inquest and by the Hajam, was of such a nature, that it could not by any possibility have been inflicted by the deceased herself. The pri-

soner seems to have received no provocation ; his anger appears to have been excited against his wife merely because, contrary to his wishes, she wanted to go with her uncle. The Court, therefore, finds him guilty of wilful murder ; in having, on or about Wednesday, 5th November 1856, (corresponding with Kartik Shood 8th, Sumvut 1913) in the Village of Bhunkara, Veerumgaum Talooka, Ahmedabad Zillah, purposely, and without justifiable or extenuating cause, inflicted two wounds with a sword, one on the wrist, and the other on the shoulder of his wife, Jusbaee, aged 25 years, from the effects of which the said Jusbaee died on or about the 4th January 1857.

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After taking into consideration the nature of the offence proved against you, prisoner Kussoojee Ramajee, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXXVI. Clause 4th, of 1827, and the fact of there being no extenuating circumstance, the sentence of the Court is, that you be hung by the neck until you be dead, at the usual place of execution at Ahmedabad. The sentence is, however, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

In the Sudder Foujdaree Adawlut ; Minute by Mr. W. H. Harrison, Puisne Judge.
Harrison.—I see no reason to doubt that the prisoner inflicted the wounds by which the death of deceased was caused, and without such provocation as would amount to extenuating cause. The conviction of murder ought, therefore, to be confirmed. The blow seems to have been struck in sudden passion, and it appears that the prisoner was immediately seized with remorse at what he had done, and remained by his wounded wife until he was arrested. Under the circumstances I would sentence to transportation for life.

Resolution of the Sudder Foujdaree Adawlut.—The conviction is confirmed, and prisoner sentenced to transportation for life.

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SURAT.

Present, { WILLIAM EDWARD FRERE,
 WILLIAM HENRY HARRISON, } Puisne Judges.
 ROBERT KEAYS,

[Case No. 5 of the Criminal Return of the Magistrate of Surat for February 1857. Tried by the District Deputy Magistrate, DAJEE SOONDERLAL, on the 3rd February 1857. Confirmed by the Magistrate, G. INVERARITY, on the 10th February 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Attempt at Se-
 cretly Injuring
 and Destroying
 the Property of
 another.

Prisoner.—Humudjee Husun, Mussulman, aged 30.

Charge.—Attempt at secretly injuring and destroying the property of another (Regulation XIV. of 1827, Section XLII. Clause 2nd, and Section I. Clause 2nd); in that, on Monday, the 26th January 1857, (corresponding to the 1st of Magh Shood, Sumvut 1913,) at 6 P. M., at the village of Hurungaum, Chicklee Talooka, Surat Zillah, with the view of killing a black she-buffalo, valued at Rs. 25, and belonging to the prosecutor Isapjee Sulemanjee, he threw before her a small packet of white arsenic contained in some leaves of 'val' (a vetch) when she was grazing, and thereby inducing her to eat the val, endeavoured to secure her death.

Prisoner pleads not guilty.

Dajee Soondur-
 lal, District Depu-
 ty Magistrate.
 G. Inverarity,
 Magistrate.

Finding and Sentence by the District Deputy Magistrate, confirmed by the Magistrate.—The prisoner is charged with an attempt to secretly injure and destroy the property of another, and pleads not guilty; but a consideration of the papers recorded in the case shows that the val leaves appear to have been chewed by an animal, and, on loosening the fine 'shon' (linen) thread which was about it, a small packet composed of a piece of black cloth with red spots containing some white powder, not less than half a tola in weight, was discovered.

No inquiry whatever was instituted by the Chicklee Police Amuldar as to the nature of the powder: it was

therefore sent for the purpose of analysis to the Civil Surgeon, who, in his certificate (exhibit No. 10), states that "it contains a large quantity of white arsenic."

From the Civil Surgeon's certificate to the above effect the Court determines that the powder is a poisonous substance called 'somul' (arsenic), and the quantity, if consumed by any animal, is sufficient to kill it.

The cowherds Bhanis Bhikario (witness No. 3) and Chutoorio Dewjee (witness No. 4), who were in charge of the buffalo belonging to prosecutor Isapjee Sulemanjee (witness No. 2), as well as other cattle, and who were on a hillock about a hundred paces distant from the prisoner, saw him throw the val containing the packet of poison from his arm; before the prosecutor's buffalo, which was returning to the village from drinking at the river. The witnesses ran to the spot, where the buffalo was; No. 4 laid hold of its horns, and No. 3 took out the stuff from its mouth; in the meantime the prisoner went away towards the Dherwara. Afterwards the stuff was laid before the Police Patel of the village, to whom the buffalo belonged.

The evidence of the cowherds (the witnesses Nos. 3 and 4) is, in the opinion of the Court, sufficiently credible. The packet was opened, in the presence of the aforesaid witnesses, by Lulva, the village Bhungyia (witness No. 5), at the direction of the Police Patel (the prosecutor No. 2); and the powder, as stated above, was discovered in it, and it was then produced by the said witness No. 5 before the Police Amuldar at Chicklee. The Court, therefore, does not hesitate to believe this as correct.

It is, however, a matter worth considering, what cause the prisoner, who is a Mussulman, had to poison cattle, and how the cowherds (witnesses Nos. 3 and 4) entertained suspicions against him. The evidence of witnesses Nos. 2, 3, 4, 5, 6, 7, and 8 shows that the prisoner has illicit connection with Jethce, the daughter of Pemla,

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the Khalpa of the village ; and the same being against the Mahomedan law, the sixty houses (or families) of the Borah caste residing there have turned him out of caste ; thus there is a reason for the prisoner's entertaining enmity. In connection with this there is also another one, viz. there being only one Khalpa's house in the village, the same individual, with whose daughter the prisoner has connection, and therefore, with the view of securing their favour, the prisoner would exert himself to get them as many dead cattle as possible.

Four instances of cattle having suddenly died have been brought to the notice of the Court by witnesses No. 6 (the female Achee), No. 7 (Cheebra), and No. 8 (Jeewa), and all these have occurred subsequent to the prisoner's expulsion from his caste. Witness No. 6 (Achee) states that her cow, which was grazing along with the prosecutor's buffalo, and in charge of the cowherds (witnesses Nos. 3 and 4) to whom the buffalo had been entrusted, died on the night on which the val was taken out of the buffalo's mouth ; and in the course of twenty days two kine, which were in charge of witness No. 7 (Cheebra), who is also a cowherd, died. The prisoner is said to have passed by one of these kine when it was alive. When the cattle began to die in this manner, the villagers entertained suspicion against the prisoner and the Khalpa, and the prosecutor (witness No. 2), who is Police Patel of the village, appears to have enjoined on the cowherds to be careful that nobody gave anything to the cattle to eat.

The evidence of witnesses Nos. 3, 4, and 5 shows that a worn-out cloth of the same description as the black piece with red spots, about eight 'anguls' (fingers) in length and to the same extent in breadth, now before the Court, was used by the female with whom the prisoner has connection. The prisoner's and the Khalpa's houses were subsequently searched for such a piece of cloth, as well

as for any powder of the nature above adverted to by witness No. 9 (Sirdarkhan), but nothing was found.*

The prisoner (Humudjee Husun), in his statement (exhibit No. 11), does not bring forward any proof to exculpate himself from the charge brought against him, only stating that it is the result of enmity with the Police Patel ; such a statement is far from being credible. He, however, admits that he passed on to the Dherwara on his own business, by the place where the cattle were grazing, and there was none else besides witnesses Nos. 3 and 4, whose evidence is therefore worth credit.

Had not witnesses Nos. 3 and 4 (the cowherds) immediately seen what the buffalo put into its mouth, the poisonous powder would have been consumed, and the animal's death following, a loss of Rs. 25 would have accrued to the prosecutor.

Under the circumstances stated above, the Court convicts the prisoner (Humudjee Husun) of an attempt to secretly injure and destroy the property of another, as specified in the beginning of these proceedings ; and, taking into consideration the nature of the offence, and the extent of punishment specified in Regulation XIV. of 1827, Section XLII. Clause 2nd, and Section I. Clause 2nd, of the same Regulation, passes the following sentence on him :—

That you, Humudjee Husun, suffer imprisonment with hard labour for nine (9) months; the sentence being subject to the confirmation of the Magistrate under Regulation IV. of 1830, Section III.

* * * * *

On the receipt of the Magistrate's confirmation of the sentence the poisonous powder will be destroyed, and the result of this trial will be communicated to the Chicklee Police Amuldar.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—The Deputy Magistrate does not observe that

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cretly Injuring
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W. E. Frere,
Puisne Judge.

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the witnesses Bhanio and Chutoorio give different accounts of who seized the buffalo's horns, if the translation of their statements be true, and the case is otherwise carelessly tried.

I, however, entertain no doubt of prisoner's guilt, for the only point he appears to me to put in issue is the fact whether he threw the bundle down before the animals or not. There is no question raised as to whether the substance was arsenic or not. In the trial of a capital case I would at once agree with Mr. Harrison, that the absence of evidence to prove that the substance was arsenic was fatal to the prosecution, and I would not confirm the finding and sentence; but in a summary case I would not raise the question, if the prisoner did not; and as he confines his objections to the credibility of the witnesses for the prosecution alone, I would not interfere in the case.

The Deputy Magistrate has recorded a great deal of hearsay, particularly in Isapjee's evidence, and the evidence as to whether other people's cattle were poisoned or not is all irrelevant to this case. Every buffalo in the village might have been poisoned about this time, and prisoner, though guilty of this offence, innocent of all the others. Recording such evidence is of no use but to mislead the Magistrate and give him a prejudice against the prisoner, and Magistrates ought therefore to be very careful never to take it.

W. H. Harrison,
Puisne Judge.

Minute by Mr. Harrison.—The evidence in this case is in my opinion too slight for conviction.

There is nothing to connect the substance alleged to have been thrown before the buffalo by the prisoner with that presumed in a note by the Civil Surgeon, who was not a witness and whose note was not evidence in the case, to be arsenic. I do not think the testimony to the prisoner's having given the buffalo anything to eat is at all satisfactory, and would acquit the prisoner.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge.

Minute by Mr. Keays.—I have not the very slightest doubt regarding the guilt of the prisoner in this case. The only link in the chain of evidence which appears to me the least defective, is that the substance which was thrown down before the buffalo by the prisoner is arsenic. The substance, whatever it was, which the prisoner gave the animal to eat, was sent by the Deputy Magistrate to the Civil Surgeon for analysis, and he returned it with a report that it contained a large quantity of arsenic. The prisoner himself does not deny that it is arsenic, but contents himself with denying that he threw the substance, whatever it was, before the buffalo. I think I am justified in assuming that the substance thrown was arsenic. Under these circumstances I would reject the petition.

Final Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

Copies of the Minutes to be sent for communication to the Deputy Magistrate, with an injunction to be more careful in future cases.

The Court would suggest to the Magistrate that cases of this kind, in which the evidence of the Civil Surgeon is likely to be required, should be referred for trial to an Assistant or Deputy Magistrate at the Sudder Station.

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WILLIAM HENRY HARRISON, } Puisne Judges.

BELGAUM.

[Case No. 10 of the Calendar of the Dharwar Sessions Court for 1857.

Committed by the Deputy Magistrate, RAGHOB JUNARDHUN, on the 31st December 1856. Tried by the Session Judge, A. W. JONES, on the 5th, 6th, 7th, 14th, 16th, 17th, and 19th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder, attended with Robbery; and Concealment of Murder after the Fact.

Prisoners.—No. 1, Bahadoorsing bin Thakoorsing, Kshétree, aged 21.

2, Sudaree bin Oodee, Hajam, aged 35.

3, Jykurn Juttee Gooroo Sumboo Jutee, Bhyrajee, aged 32.

4, Thakoora kom Ghasoo, Gudree, aged 20.

Charge.—Against prisoners Nos. 1, 2, and 3 (Bahadoorsing, Sudaree, and Jykurn) murder, attended with robbery (Regulation XIV. Section XXVI. Clause 1st, and Section XXXVII. Clause 3rd, A. D. 1827); in having, on or about Wednesday, the 17th December 1856, (corresponding with Margsheersh Wud 6th, Shuké 1778,) in the Town of Belgaum, in the Belgaum Division of the Dharwar Zillah, wilfully, and without extenuating or justifiable cause, deprived of life one Chootki kom Heerasing, by inflicting on the left side of her neck several wounds and injuries with a dagger and a knife, or such other instrument, from the effects of which she, the said Chootki, then and there died. And with having, at the same time, stolen her property, namely one golden 'suree,' seventeen or eighteen 'pootlees,' one long narrow money-bag full of rupees, value unknown, and another bag containing forty rupees.

And against prisoner No. 4 (Thakoora) concealment of murder after the fact (Regulation XIV. Section I. Clause 5th, and Section XXVI. Clause 1st, A. D. 1827); in having,

although well aware that the prisoners Nos. 1, 2, and 3 (Bahadoorsing, Sudaree, and Jykurn Juttee) had murdered the abovenamed Chootki at the time and place mentioned above, received a sum of Rs. 40 from prisoner No. 1 (Bahadoorsing), and concealed the murder by refraining from giving any information to the Police relative to the murder.

Finding and Sentence by the Sessions Court.—In this case the prisoners are charged, Nos. 1, 2, and 3 (Bahadoorsing, Sudaree, and Jykurn Juttee) with murder and robbery, and prisoner No. 4 (Thakoorā) with concealment of murder after the fact.

It appears that two women, the wives of two Sepoys of the 20th Regiment, had, since the departure of the Regiment on service to Persia, lived in the back yard of the house of one Kallooram, a liquor-seller of Belgaum; and, in the morning of Thursday the 18th December, this Kallooram (witness-No. 7), observing that the door of the room where one of these women (named Chootki) lived was closed later than usual, called to her several times, and getting no answer, he declares he at once concluded that she had hanged herself, and therefore went and reported the matter; and the Police Patel and Joint Police Officer and others came to his house, and, as it did not appear by whom the crime had been committed, he and the other residents of his house were arrested, and among them were prisoner No. 4 (Thakoorā) and prisoner No. 2 (Sudaree).

On examining the body it was found that there were a number of stabs and one cut in the throat, and though there was a knife in the hand of the corpse, which was applied to one of the wounds, so that at first sight it seemed as if she had destroyed herself, the Members of the Inquest had no difficulty in coming to the conclusion that the woman had been murdered, from the fact that a quilted cloth had been spread over the body, which,

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as it was unstained with blood, must have been put there after the wounds had been inflicted, and therefore after death. The Inquest Report was proved and recorded before the Court, and the Session Judge considers there can be no doubt it is correct, and that the deceased was murdered.

In the course of the day, although it is shown by the Joint Police Officer (witness No. 13) that she had in the first instance denied all knowledge of the murder, prisoner No. 4 (Thakoorā) admitted that she knew it had been committed by the prisoners Nos. 1, 2, and 3 (Bahadoorsing, Sudaree, and Jykurn Juttee). In consequence of this confession, prisoner No. 1 (Bahadoorsing) was arrested in the morning of Friday the 19th, and he, on being questioned, admitted that he knew that the murder had been committed by prisoners Nos. 2 and 3 (Sudaree and Jykurn Juttee), and that he had witnessed it, as, from having an intimacy with prisoner No. 4 (Thakoorā), he happened to be with her during the night of the 19th December. This statement was taken down on that day, and it was proved before the Court to have been given by him, and he has not denied it in any way. In it he says that his attention was directed to the deceased's room (which is next to or adjoins the small room of matting in which the first prisoner, Bahadoorsing, lives) by the prisoner No. 4 (Thakoorā), and that on going there he saw prisoner No. 2 (Sudaree) holding the hands of deceased, and prisoner No. 3 (Jykurn) cutting or stabbing her in the throat; that he abused and struck at them, but that they pushed him aside and ran away; that as prisoner No. 3 pushed against him his clothes got marked with blood. He also says that they had no time to take away the ornaments of deceased as he came in, and that he himself ran away home also and saw the direction taken in their flight by

the other prisoners. He goes on, however, to say, that a cloth was thrown over the corpse, and that the knife was placed in the hand of the murdered woman before they all ran away, which is therefore not quite consistent with his account at the beginning of the statement that his entry had frightened the others and that they had run away immediately; and he also goes on to say that he warned Thakoora not to mention the murder to any one. A day or two after this he stated that prisoner No. 2 (Sudaree) had opened the box of the deceased with a particular key, and had given him a bag of Rs. 40, which he (the prisoner Bahadoorsing) gave to Thakoora (prisoner No. 4). He also says that the knife used by the murderers and their hands were wiped on some cotton which was buried on the spot, used by prisoner No. 4 (Thakoora) as a bathing-place; and he then explains that the knife was placed in the hands of the deceased in order to make it appear that she had cut her own throat, and allows that the deceased had abused him for coming to Thakoora (prisoner No. 4). Again, on the 25th, he admits having shown the place where a knife was found buried, and that he and the two other prisoners had committed the murder; and after this, before the Deputy Magistrate, he added that the prisoners had carried away the property of deceased after the murder, and that it consisted of venetians ('pootlees'), a gold 'suree,' and two bags of rupees, of which they had given him one, containing Rs. 40, which he gave to Thakoora. The prisoner did not deny this statement, or make any further exception to it than to say that, in the middle of it, it was stated that he and the two other prisoners committed the murder, whereas he did not do it. It was the two others who had committed the crime. In corroboration of this statement it is shown by the Joint Police Officer (witness No. 15) that one of the

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jackets found on the prisoners was marked with blood, and that this mark was blood is shown by the evidence of the Civil Surgeon.*

It is shown by the witnesses Nos. 13, 14, and 17 that the cotton spoken of as used to wipe the knife was found in the place indicated; no blood, however, could be traced on it, which may be accounted for by the earth in which it was buried having been quite wet.

It is also shown by witnesses Nos. 13, 14, and 16 that the prisoner pointed out a place as that where he had seen the prisoners Nos. 2 and 3 (Sudaree and Jykurn Juttee) sitting after they had left the deceased on the night of the murder, and that, on searching there, a knife was found, which was shown by the Civil Surgeon to have blood on it, and this knife is admitted in the prisoner's statement to be one of those with which the murder was committed, and it is also shown that a bag containing Rs. 40 was given up by prisoner No. 4 (Thakoora) as having been given her by the prisoner No. 1 (Bahadoorsing), as he says in his statement.

The Session Judge has no doubt therefore that this statement is so far true, that the prisoner No. 1 (Baha-

* *Deposition by the Civil Surgeon.*—I am George Feddes Forbes, 43 years of age, by religion a Christian, by sect Protestant, employment Civil Surgeon, residing in Dharwar.

I have examined the contents of the small basket now before the Court. The white jacket, or 'bundee,' is stained with blood on the lower corner of the right side; the extent of the stain throughout might be about the size of a rupee, and it was a slight not a deep stain, more apparently from an oozing than from a spirt of blood. It might have been produced by contact with a scratch on the person of the wearer.

There was blood also upon the blade of the clasp-knife now produced; the remaining articles, viz. some cotton and earth with hair mixed in it, gave no evidence of being stained with blood.

If the cotton had been buried for some time in a wet or damp place, it would be more difficult (if not impossible) afterwards to detect blood upon it.

doorsing) was perfectly acquainted with all the details of the murder, even if he were not the principal or even the only murderer. For it is to be remarked that, with the exception of the Rs. 40 which this prisoner admits he took, there is no proof that the deceased has been robbed of any property whatever ; and as it is evident that the murderers did not make off in such haste as the prisoner Bahadoorsing at first represented, since they could wait to arrange the knife in the hand of the deceased, and spread a quilt over the body, it is not easy to see why they should have left so many valuable ornaments on it ; whereas the prisoner has admitted that the deceased abused him for coming to see the prisoner Thakoorā, which would furnish a motive for the crime, and would also account for the deceased not having been robbed of her ornaments. It appears to the Session Judge, therefore, that the truth probably is that the prisoner Bahadoorsing was the sole murderer ; but even allowing him the benefit of his own account, and that he was only an accidental witness of the crime, as he actually received part of the plunder, and gave it to his mistress to induce her to conceal the crime, he must be considered as equally guilty with those whom he has denounced. He is therefore convicted of murder and robbery ; in having, on or about Wednesday, the 17th December 1856, (corresponding with Margsheersh Wud 6th, Shuké 1778,) in the town of Belgaum, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, wilfully, and without extenuating or justifiable cause, deprived of life one Chootki kom Heerasing, by inflicting on the left side of her neck several wounds and injuries with a dagger and a knife, or such other instrument, from the effects of which she, the said Chootki, then and there died.

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one long narrow money-bag full of rupees (value unknown), and another bag containing Rs. 40.

The prisoner No. 4 (Thakoorra kom Ghasoo) admitted before the Court freely that her statement was true ; and as it was shown by the Joint Police Officer that she at first denied all knowledge of the crime, and then admitted not only having been aware of it, and of the persons by whom it was committed, but that she had received a bag of Rs. 40 from one of the persons concerned in it, and as it was proved that she gave up this bag of rupees, acknowledging how she came by it, the Session Judge considers she must be convicted of concealment of murder after the fact, as charged ; in having, although well aware that the prisoners Nos. 1, 2, and 3 (Bahadoorsing, Sudaree, and Jykurn Juttee) had murdered the abovenamed Chootki at the time and place mentioned above, received a sum of Rs. 40 from prisoner No. 1 (Bahadoorsing), and concealed the murder by refraining from giving any information to the Police relative to the murder.

There being no evidence against prisoners Nos. 2 and 3 (Sudaree and Jykurn Juttee), they are acquitted and discharged.

And, after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, the following sentence is passed (Section XXXVII. Clause 3rd).

That you, Bahadoorsing bin Thakoorsing, and Thakoorra kom Ghasoo, be transported across the seas for the term of your natural lives. Subject to the confirmation of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
ROBERT KEAYS,

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—
AHMEDABAD.
—

[Petition from Mugun Sukeechund, Manager of Runchoredas Jumna-
das, to the Sudder Foudaree Adawlut. Referred to the Magis-
trate of Ahmedabad, J. W. HADOW, on the 21st January, for
Report.]

Petition from Mugun Sukeechund to the Sudder Fouj- Encroachment on
daree Adawlut.—[Praying that an order of the Magis- Government Land.
trate of Ahmedabad, closing his shop, might be annulled.]

Precept issued by the Sudder Foudaree Adawlut to
the Magistrate.—The Magistrate is to be requested to
certify the papers and proceedings, together with his
report.

Return by the Magistrate.—In reply to the within J. W. Hadow,
Precept, the Magistrate of Ahmedabad has the honour Magistrate.
to report, that on the 5th June 1849 it was reported
by the Foudar of Ahmedabad that one Vurzbhookun
Heerachund had made an encroachment on Government
land by building an ‘otla,’ or seat, and placing doors
(twelve in number) to the rear wall of the building
situated along one of the sides of an opening into the
Dana Peeth or grain market. On this a Notice was
issued on Vurzbhookun, directing him to remove the
otla and the doors above referred to within fifteen days,
under Act XXI. of 1841. Dissatisfied with this Injunc-
tion, he filed a suit against the Magistrate in the Civil
Court, where his petition was thrown out with costs.

Some time after the above decision had been passed,
it was reported that Vurzbhookun had become insolvent,
and had disappeared from the city of Ahmedabad, mak-
ing over the building in question to Runchore Jumna-
das and others, in payment of the debt he owed to them.
The Notice was in consequence served on these persons,
who requested to be allowed to appeal to a ‘punch’ or
Jury ; but their request was not granted, in consequence

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of their having failed to make the application within the period prescribed in the Notice.

They again petitioned the Magistrate, expressing their desire to pay such amount of rent to Government as might be fixed, if the otlā and doors be allowed to remain as they were. In reply they were informed that they should, in the first instance, fully obey the orders issued to them, and then they might make whatever request they may consider necessary, which would receive due consideration on the part of the Collector and Magistrate.

The orders contained in the Notice appear to have been carried out only as far as relates to the otlā and shed, but the purchasers of the building refuse to close the doors as directed.

In conclusion, the Magistrate begs to state, that it had been under contemplation to erect stalls and rent them out on behalf of Government to persons selling grain in the market recently established, in the quarter of the city above referred to; and the owners of the houses in question, objecting for some reason to the scheme, opened doors in the rear walls, so as to establish a right of thoroughfare through the market, and thus prevent shops being erected along the sides; the Magistrate therefore considered it necessary to issue the Notice of which the petitioner complains.

The Guzerathee report, together with papers and proceedings in the case, is herewith forwarded, and the petition returned, as requested.

Further Precept issued to the Magistrate.—The Magistrate is to be requested to report upon what date the Notice was served upon petitioner, and what number of days were allowed in the Notice for the removal of the doors and otlā.

Further Return by the Magistrate.—In reply to the extract of the Court's proceedings which accompanied this Precept, the Magistrate begs to state that no new

Notice was served on the purchasers of the building in question, on whose behalf petitioner appeals; they were called upon to act up to the Injunction which had been issued in the Notice served on the original owner.

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The Magistrate begs also to state that fifteen days was the period prescribed in the Notice above alluded to.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 16 of the Criminal Return of the Magistrate of Tanna for February 1857. Tried by the Deputy Magistrate, DADOBA PANDOURUNG, on the 19th, 20th, and 21st February 1857. Confirmed by the First Assistant Magistrate, H. B. BOSWELL, on the 26th February 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoners.]

TANNA.

Prisoners.—No. 1, Lazaro Manoel Quini, Christian, aged 30.

Serious Assault;
and Robbery by
Day, with Force.

2, Aleixo wulud Salvador de Souza,
Christian, aged 20.

Charge.—Serious assault (Regulation XIV. Section XXIX. Clause 1st, of 1827); in having, on or about 21st January 1857, (corresponding with Poush Wud 11th, Shuké 1778,) in the Village of Moujé Goray, Talooka Salsette, Zillah Tanna, at about 4 p. m., prisoner No. 1 first tied up the hands of one Hajee wulud Nathoo Khoja, and having bound him to a cocoanut tree in his

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own 'oart,' both the prisoners beat him severely with the thick stems of the branches of the cocoanut, causing thereby a great degree of bodily suffering to the said Hajee.

Also, further charged, under Regulation XIV. Section XXXVII. Clause 3rd, of 1827, with robbery by day, with force ; in having then and there, while the said complainant (Hajee) was in that position, taken away from off his fingers two gold rings of the value of about Rs. 16.

Prisoners plead not guilty.

Dadoba Pan-
doorung, Deputy
Magistrate.

Finding and Sentence by the Deputy Magistrate.—It appears quite manifest, from the foregoing investigation, that both the prisoners tied Hajee to a tree in his father's garden, and in that position beat him with thick stems of the branches of the cocoanut. The reason which Hajee assigns for their having done so is, that both the prisoners were then detected in robbing his cocoanuts, a circumstance which Mathews corroborates in his evidence recorded No. 2. Not only this, but when Mathews went to release Hajee they tied him also and beat him in the same manner, as appears clear from other evidence, particularly of the two boys, Miguel and Domingos (witnesses Nos. 3 and 4); and the man named Pascoal (witness No. 5). It also appears, from the evidence of witnesses Nos. 6, 10, and 14, that the complainant (Hajee) was for some days sick in consequence of this assault. In the absence of the Police Karbharee, when the father of Hajee (witness No. 9) went to Tanna to lodge this complaint against the prisoners, both of them caused a letter to be written to the father, in which they apologised for what they had done to his son, and promised to refrain themselves from committing any similar acts in future. This letter is recorded No. 8 in these proceedings, and seems, in all probability, to be a genuine production, got up at the request of both the prisoners, who

cannot write themselves. From this mass of evidence the Acting Deputy Magistrate has no hesitation to convict both the prisoners, when they have nothing to state in their defence, except resorting to some irrelevant stories. Even from the statement of prisoner No. 1 it would appear that he was in Nathoo's oart on the day and hour mentioned in the charge. Prisoner No. 1 does not even know the exact day on which he is going to prove his *alibi*, much less the particular hour at which this assault took place. He simply alludes to some toddy affair, and states that he was engaged on that day in manuring his field of onions. Under all these considerations, both the prisoners are convicted and found guilty of the first charge preferred against them.

It does not appear, in the opinion of the Acting Deputy Magistrate, that there is so clear an evidence to prove the second charge against the prisoners. Mathews (witness No. 2) deposes to the fact of his having seen prisoner No. 2 take off by force two gold rings from the fingers of Hajee and give them over to prisoner No. 1, but witness No. 5, who deposes to the same fact, does not state what those rings were made of. Neither does the complainant (Hajee) appear to have made any noise about his rings at that moment. He did not tell this to the two boys who came to see him there, nor to the persons who visited him on his sick bed. However, from Hajee's own statement, and from the evidence of witnesses Nos. 2 and 5, there appears to be good ground for attaching strong suspicion to the prisoners; but the charge cannot be brought home to their conviction. Under this circumstance, prisoners are allowed the benefit of the doubt, and dismissed from the second charge.

It appears from the records that both the prisoners are men noted for their turbulent habits. On the 4th July last, both the prisoners, with other men of their fraternity, from their habitual turbulent character, were

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required, by order of the Magistrate and the Superintendent of Police, to give securities for their future good behaviour. Consequently the Acting Deputy Magistrate obtained securities from them in the sums of Rs. 400 and Rs. 500 respectively, for their refraining in future from doing injury to any person or property for a term of three years. A reference to these records will at once show how often the prisoners have been accused and fined for their gross misconduct.

Prisoners are sentenced, each to undergo one (1) year's imprisonment with hard labour, under Regulation XIV. Section XXIX. Clause 1st, of 1827.

This sentence is subject to the confirmation of the Magistrate.

H. B. Boswell,
First Assistant
Magistrate.

Confirmation by the First Assistant Magistrate.—From the above there is nothing to show why a complaint was not sooner made by one or other of the assaulted parties, nor is it clearly proved that the Police Patel was absent from the village at the time; and until these points are cleared up, in the absence of evidence as to the state of complainant's person on the day of the assault, there is some suspicion thrown on his own account of the extent of the injuries he sustained. The Assistant Magistrate therefore resolves first to take further evidence on this point, and orders are therefore given to summon the Police Patel and other witnesses.

* * * * *

In considering the evidence in this case, it must be observed that there is a very strong feeling in the village against the prisoners, which, whether or not justly founded, might, as they urge, lead the witnesses to conspire against them. But after making all allowances on this account, the Assistant Magistrate is perfectly satisfied that they did commit the assault with which they are charged. Witnesses Nos. 1 and 2 are quite unable, it is true, to give any satisfactory and detailed

account of the delay of so many days in making the complaint; but their manner leaves no doubt on the mind of the Assistant Magistrate that stupidity, not dishonesty, is the cause, and that they are persons quite incapable of making a conspiracy. Witness No. 1, though said to be 16 years old, is a child in understanding, and this and the absence of the Police Patel sufficiently account for no complaint having been made until the return of his father Nathoo, even without considering the fear of prisoners, in which there is good reason to suppose their neighbours stand. It cannot be supposed the Police Patel (witness No. 18) would make statements so detrimental to himself as he has done unless they were true, and it is equally clear that, had he been a party to a conspiracy against prisoners, he would have been more active in providing evidence against them. In like manner the evidence of the last two witnesses bears internal evidence of being true, which, in spite of the enmity existing against the prisoners, yet satisfies the Assistant Magistrate that they in the main speak the truth, while the defence of prisoner No. 1 is an evident "got up."

The only point on which any doubt exists is as to the extent of the injuries caused by prisoners to complainants, and here the evidence fails to show that they were of a very serious nature. The fact, however, of the assault being proved, the circumstances of the case, and the past conduct and offences of the prisoners, by which they have evidently become objects of dread in their village, render it necessary a far more severe example should be made of them than might otherwise have been required from a mere consideration of the extent of the assault; and on these considerations the Assistant Magistrate is of opinion that the sentence passed on the prisoners by the Deputy Magistrate is not in the least too severe. Conviction and sentence confirmed.

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The attention of the Deputy Magistrate is called to the statements of the Police Patel ; and an inquiry should be instituted into his neglect of duty (for which fear of the prisoners is not a sufficient excuse), with a view to preventing such conduct in future.

Also the prisoners' securities must now be proceeded against, for breach of their security bonds.

When prisoners are released from custody, they are to be forwarded to the Deputy Magistrate for further precautionary measures.

* * * * *

Apart from the delay in making a complaint above commented on, there has been great apparent remissness on the part of the Police Amuldar in the preparation of this case. Nuthoo, the father of complainant, made his complaint on the 3rd February, on which day it appears summonses were issued, and yet nothing else seems to have been done up to the 14th and 18th instant, though the village of Goray is only about twelve koss from Tanna. The Deputy Magistrate is desired to make particular inquiry on this point, if he has not already done so.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—A great deal of hearsay has been recorded in this case, which should not have been. The First Assistant Magistrate appears to have made every allowance for the ill-feeling which is known to exist against the prisoners in their village, and is the strong point of their appeal. The charge appears to me to be fully proved.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoners is rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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[Case No. 15 of the Calendar of the Sholapore Sessions Court for 1857.

SHOLAPORE.

Committed by the Second Assistant Magistrate, J. A. G. DUFF, on the 4th March 1857. Tried by the Session Judge, T. A. COMPTON, on the 21st and 25th March 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Nagowa kom Bhimuna, Koshtee, aged 16.

Attempt to
 Commit Murder.

Charge.—An attempt to commit murder (Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 2nd); in having, on Saturday the 21st February 1857, (Magh Wud 12th, Shuké 1778, Shuniwar,) in the village of Churchun, Talooka Indee, in the Zillah of Sholapore, mixed red-lead in the food of her husband, Bhimuna wulud Shiwapa, with the intent of depriving him of life.

Finding and Sentence by the Sessions Court.—The prisoner (Nagowa kom Bhimuna) is charged with attempt to commit murder, in having administered red-lead to her husband in his food, and pleads not guilty.

T. A. Compton,
 Session Judge.

Her husband (Bhimuna wulud Shiwapa, witness No. 3) affirms, that on the 21st February 1857, he went home to dinner as usual about 3 o'clock p. m., and that the prisoner (Nagowa) having given him some bread and 'dal' to eat, he observed that it was of a red colour, and asked her what she had put into it; that she replied that some 'koonkoo,' or paint for the forehead had fallen into it, and took her oath to this, adding that she had no wish to lose him, or marry any one else. Reassured by this, he ate his dinner in confidence; but about an hour afterwards felt great pain in his bowels, and became exceedingly ill; he, however, took an emetic, and next day recovered his usual health.

Bhimuna deposed, before the Mahulkuree of Churchun,

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that the prisoner (Nagowa) would not live with him, and that he had lately brought her to his house against her will. He is now, however, most unwilling to give any evidence against her, repudiates the above statement, and asserts that they have never had any disagreement, but live happily together. He also affirms that at the full and new moon the prisoner is possessed with a 'bhoot' or demon, and does not know what she is saying, or doing.

From the evidence of Gajyabhaxe Shetsundee (witness No. 4) it appears that he was sent (by the Mahulkuree of Churchun) with two others to search the prisoner's house, and he asserts that a piece of paper stained red was lying near some grain jars, and that the prisoner gave it to him.

This piece of paper and its contents have been carefully analysed by the Civil Surgeon, and he certifies that the paper unquestionably contained red-lead, but that such a scrap could not have contained a sufficient quantity of the drug to cause the death of an adult.

The prisoner (Nagowa) fully confessed, before the Police Officer of Churchun, having administered the poison to her husband, because he was always quarrelling with her, and did not treat her properly. She, however, repudiated this confession before the Second Assistant Magistrate, and still denies having ever made it, asserting that she is not in her right senses at the full and new moon.

The 23rd February 1857, the day on which her confession was taken, was, however, the 14th day of the Hindoo month, and to-day being the 30th or last day of the Hindoo month, the prisoner is nevertheless in her sound senses, and no great weight therefore need be attached to this plea.

The witnessess Nos. 6 and 7 (Dinkur Jeeto and Mahiput Jiwajee) prove that her confession was freely and

voluntarily made, and that she appeared to be in complete possession of her senses at the time ; and the Court is of opinion that the confession has received sufficient corroboration to justify its being employed against her.

It appears to the Session Judge that the evidence of her husband, given as it has been with the utmost reluctance, tells most powerfully against the prisoner. He endeavours to make out that they live happily together ; that she is a woman of good character, and has no fault to find with him ; but he deposes that when he observed that the dal was of an unusual and red colour, she swore to him that it was occasioned by paint (for the forehead) which had fallen in accidentally, and induced him to eat it by asking him reproachfully why he supposed she was not content with him and wanted to marry some one else.

These remarks, coupled with Bhimuna's sudden illness, the fact deposed to by the Civil Surgeon* that the symptoms resembled those usually caused by red-lead, that a paper containing red-lead was found in the prisoner's house and given up by her, appear wholly irreconcilable with the supposition of her innocence.

* *Deposition by the Civil Surgeon.*—Charles James Sylvester, Christian, aged 33 years, Civil Surgeon of Sholapore, is called into Court, and deposes on oath :—

“ I have examined the piece of red paper forwarded for analysis by the Session Judge, and find that the red substance with which it is stained is the red oxide of lead. The piece of paper in question could not have contained sufficient red-lead to have caused the death of an adult ; and so few cases of death from this poison are on record that it is difficult to state positively the exact quantity of the drug which would destroy life. Patients have recovered after taking between two and three ounces of it. The usual symptoms attendant on poisoning by lead are constipation, violent colic, and paralysis. The poison, administered in bread, or flour, would be almost tasteless ; and unless the dose were a large one, an emetic would probably remove any risk or danger of death. The symptoms complained of by the prisoner's husband are such as might have been produced by red-lead.”

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The prisoner (Nagowa kom Bhimuna) is accordingly convicted of an attempt to commit murder; in having, on Saturday, the 21st February 1857, (corresponding with Magh Wud 12th, Shuké 1778, Shunwar,) in the village of Churchun, Talooka Indee, in the Zillah of Sholapore, administered some red-lead to her husband, Bhimuna wulud Shiwapa, in his food, with the intent of depriving him of life.

After a mature consideration of the offence which the prisoner (Nagowa) has committed, together with the nature of the punishment provided for the same by Clause 4th, Section XXVI. and Clause 2nd, Section I. of Regulation XIV. of 1827, the Court proceeds to pass the following sentence, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut:—

That you, prisoner Nagowa kom Bhimuna, be transported across the seas for the term of your natural life.

* * * * *

The Session Judge has deemed it his duty to record a sentence of transportation against the prisoner (Nagowa), but would humbly advocate a mitigation of the punishment, in the event of the conviction being confirmed, on the grounds of the youth of the prisoner, the unwillingness of the husband to prosecute, the large quantity of red-lead which (it appears) is necessary to destroy life, and the uncertainty as to the amount actually administered by the prisoner (Nagowa):

Resolution of the Sudder Foujdaree Adawlut.—This prisoner has been convicted of an attempt to poison her husband by putting red-lead into his food, and the evidence against her consists of a confession before the Police, denied before the Magistrate and Sessions Court, but corroborated by the evidence of the husband as to his having been taken ill after partaking of some food cooked by his wife, which attracted his suspicion from appearing of a red colour, though he ate all of it.

A piece of paper, stained with red-lead as if it had been contained in it, is produced, as found in the prisoner's house; but the evidence to this finding is very defective. Two witnesses, who stood outside the door, say that they saw another (Sheer Khan), bring the paper out of the house, and heard him say that he found it there; but no reason is assigned why Sheer Khan was not produced, if the paper was found at all. One of these witnesses, moreover, deposes to two pieces of paper being found, and the other denies that more than one was produced.

There is no motive assigned in evidence for the crime, for the husband denies any ill-feeling on the woman's part, and we must take as evidence what he said in the Sessions Court, and not put that aside and go to what he is alleged to have said elsewhere on the subject.

It is further not shown that the prisoner ever procured any red-lead as alleged, and Hoosainee, who is said to have bought it for her, denied ever having purchased any red-lead at all.

The prisoner is acquitted, and to be discharged.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition from Mahomed Ibrahim, and thirty-four others, to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Surat, G. INVERARITY, on the 25th March 1857, for Report.]

Petition from Mahomed Ibrahim, and thirty-four others, to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Surat, prohibiting them from tanning leather in their own premises, might be set aside.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Magistrate.—In reply to this petition, the Magistrate of Surat begs to refer to his predecessor's

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Nuisance.

G. Inverarity,
Magistrate.

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report, No. 86, under date the 27th February 1856, upon an appeal from the same parties, and to the decision passed thereon by the Sudder Court, as printed at page 414 of Morris's Cases for March 1856.

After the issue of the Notice dated the 24th December 1855, alluded to in that report, the matter, at the request of the petitioners, was referred to a 'punchayet,' constituted under Act XXI. of 1841. This punch gave their opinion in favour of the petitioners, and the opinion was concurred in, although reluctantly, by the First Assistant Magistrate in Charge, Mr. C. J. Davies.

On the return of the late Magistrate from leave of absence in June 1856, he found the nuisance still in full play, and, issuing a fresh Notice to the petitioners, appointed a new punch to inquire into the matter, on the ground that the previous one had not passed a decision after seeing the business actually in operation, and that therefore no opportunity of ascertaining the real nature of the nuisance had been allowed.

The new punch was composed of the same nominees as before on the part of the petitioners, while those selected on the part of Government were parties residing in the vicinity of the spot on which the nuisance was said to exist.

It failed to arrive at a unanimous opinion, the members on the part of the petitioners siding with them, and those nominated by Government deciding in favour of the obnoxious trade being suppressed or removed.

The late Magistrate concurred with the latter, having previously satisfied himself by personal inspection of the correctness of the view which they had taken, and a final order of prohibition was accordingly issued on the 28th November 1856.

Against this order the present appeal has now been laid.

Resolution of the Sudder Foujdaree Adawlut.—The

Magistrate, by Section III. Act XXI. of 1841, is to be "guided by the decision of the said Jury, which shall be according to the opinion of the majority." The late Magistrate, therefore, had no power to appoint a new Jury, and his order of the 28th November 1856 must be cancelled. From the tone of the Magistrate's return, the Court gather that he does not approve of his predecessor's proceeding, and therefore no further notice need be taken of it.

The Magistrate is to be requested to make his returns on the Precepts, not on a separate paper.

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[Petition from Naro Govind to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Poona, D. LEIGHTON, on the 18th March, for Report.]

Petition from Naro Govind to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate, requiring him to furnish security in Rs. 100 for two years, might be set aside.]

Security for
Good Behaviour.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the First Assistant Magistrate in Charge.—
In obedience to the instructions contained in the Precept now returned, the First Assistant Magistrate in Charge has the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that one Antajee Punt, a relative of the petitioner, advised him to settle amicably the dispute which existed between him (the petitioner) and his brother Gungadhur Govind, by paying him the sum of Rs. 500, and making over to him a portion of a certain building as his share, for which a suit had already been filed in the Civil Court. Upon this the petitioner said that "he would poison his brother

D. Leighton,
First Assistant
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within one month." Further, the petitioner had once before been concerned in a case of forgery.

Under these circumstances, the Assistant Magistrate, Mr. Coghlan, ordered him to furnish security to keep the peace towards his brother in the sum of Rs. 100, commutable to six months' imprisonment with hard labour, which order was upheld by the Magistrate on appeal.

The Murathee papers relative to this case, together with the original petition, are herewith forwarded.

Resolution of the Sudder Foujdaree Adawlut.—The petitioner not being present for the third time, his petition is struck off.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 7 of the Calendar of the Ahmedabad Sessions Court for 1856.

Committed by the First Assistant Magistrate, L. R. ASHBURNER, on the 15th October 1856. Tried by the Session Judge, A. B. WARDEN, on the 18th, 19th, and 20th November 1856. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoners, Bapoojee Adjoo and four others.]

Wilful Murder;
and Serious As-
sault.

Prisoners.—No. 1.—Bapoojee Adjoo, Koonbee, aged 40; and 13 others.

Charge.—Wilful murder; in having, on or about Friday, 8th August 1856, (corresponding with Shrawun Shood 7th, Sumvut 1912,) in the limits of the village of Balora, Talooka Tasra, Zillah Kaira, assaulted Mojdeen Morad, and beat him with sticks, and kicked him so severely, that he died from the effects thereof the same night; prisoners thereby rendering themselves amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoners are further charged with serious assault, in having, at the abovementioned time and place, wounded,

assaulted, and beaten with swords and sticks, Jumyat Bowdeen, Mehurbanboo, Boola Mojdeen, and Mendaboo, and thereby caused them great bodily suffering; prisoners thereby rendering themselves amenable to the provisions of Regulation XIV. Section XXIX. Clause 1st, of 1827. Prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—From the Inquest Report (No. 4), which has been proved by the evidence of witnesses Nos. 2 and 3 (Booran and Amud), it appears that on the right bone of the left hip of the deceased there was a bruise, which appeared to have been caused by a blow from a stick, but the members of the Inquest were unable to say what was really the cause of death. From the evidence of witness No. 5 (Jumyat) it appears that he (witness) and prisoner No. 4 (Jiji) had a quarrel in the fields about the latter driving his cattle through the field of the former, and both returned together to the village, abusing one another as they walked along. On arriving near the village prisoner No. 4 (Jiji) seized the witness Jumyat by the beard, and hit him on the side, and threw him down. Some persons rescued the witness, who got up and went to his house, and began to wash his feet. While so employed, the first five prisoners came up to him, four of them armed with sticks, and one of them (prisoner No. 3, Jeysung) armed with a naked sword; the prisoners Nos. 1 and 2 (Bapoojee and Sidur) beat him on the arms with their sticks. The witness's sister, Mehurbanboo, ran out to his rescue, and received on her head a blow from the sword of prisoner No. 3 (Jeysung), which had been aimed at the witness Jumyat. The witness's cousin, Boola Mojdeen, also received a blow on the head, but from a stick; and Mendaboo, wife of Boola, got a blow from a stick on the arm. The witness's uncle, Mojdeen Morad, who had been sitting in the verandah, got up and came out to ascertain the cause of the affray,

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when prisoner No. 1 (Bapoojee) seized him by the throat and threw him down, and also gave him a kick in the abdomen ; and prisoner No. 2 (Sidur) struck him a blow with a stick. Mojdeen died three or four hours after the assault, in consequence of a stoppage of the urine, caused by the injuries received at the hands of prisoners Nos. 1 and 2 (Bapoojee and Sidur). The remainder of the male prisoners (from Nos. 10 to 14) arrived after the affray commenced, but took no part in it ; the female prisoners came merely to look on. Witness No. 8 (Boola) has corroborated the statement of Jumyat regarding the scuffle between prisoner No. 4 and Jumyat, and the subsequent arrival of the first five prisoners before the house of Jumyat, but he has deposed that all five prisoners beat Jumyat with sticks ; this witness showed a scar on his head, and said he had received a blow on the head with a stick from prisoner No. 4 (Jiji). This witness further deposed that he had seen prisoner No. 1 (Bapoojee) throw his father (Mojdeen) on the ground and then kick him, and then either the prisoner No. 2 (Sidur) or prisoner No. 5 (Jeysing Nurotum) struck his father a blow with a stick, but which of the two prisoners he could not say, for they were so much alike. It afterwards came out that this witness had not seen his father assaulted, but had got his information from his father after the affray was over. This witness also deposed that Mehurbanboo received a sword-wound on her head, and Mendaboo a blow from a stick, but he did not see who assaulted them ; prisoner No. 3 (Jeysung) was armed with a sword. Witness No. 10 (Mehurbanboo) has deposed that almost immediately after her brother Jumyat returned home from the fields, the first five prisoners came up to the house, and without saying a word, assaulted Jumyat with sticks ; she ran to his rescue, and received a sword-wound on the head, which prisoner No. 3 (Jeysung) had aimed at Jumyat, and she fainted from loss of blood ;

she did not see Mojdeen assaulted ; she did not see the prisoners from No. 6 to No. 14. This witness showed a scar on her head, to prove that she had been wounded on the head. As it did not appear to the Court to have been done with a sword, the Hospital Assistant, who happened to be in attendance, was called in, and desired to examine it, and state with what he considered it had been done; he replied that he was positive it had not been inflicted with a sword, but with a stick or a bill-hook. Witness No. 12 (Mendaboo) has deposed that, hearing her husband Boola was being beaten, she went out to see what was the matter, when prisoner No. 4 (Jiji) struck her a blow with a stick, and she returned into the house. This witness, although before the Magisterial Authorities she had deposed that she had not recognised any of the prisoners except No. 4 (Jiji), yet before this Court she declared she had also recognised the prisoners Nos. 1, 2, 3, and 5 (Bapoojee, Sidur, and the two Jeysings). Witness Jumyat, who is the chief complainant, when asked by the Police Authorities for the names of his witnesses to prove the assault, mentioned that he had only two (Tajoo and Fajoo); but on finding that Tajoo had deposed that he knew nothing about the affray, Jumyat, fifteen days afterwards, gave the names of three other witnesses, viz. Azumkhan, Bhadurkhan, and Moojat, the two former being inhabitants of another village. One of the other complainants, witness No. 8 (Boola), the son of the deceased, also mentioned in the first instance that he had only two witnesses (Hinutshaw and Tajoo); but, on finding neither could give evidence on the subject, he, fifteen days afterwards, mentioned the names of three others, viz. Azumkhan, Bhadurkhan, and Moojat. On being asked why he had omitted to mention their names in the first instance, he said he kept back their names to prevent the prisoners tampering with them, as they had done with his other two witnesses; but the witnesses whom he says the

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prisoners had tampered with had not been examined, therefore how did he know that such was the case? Jumyat's reason for not mentioning the names of his other three witnesses is, that he was in pain, and did not remember their names. The Court considers the reasons assigned by both to be false, and suspects that these three witnesses, their names having been omitted both by Jumyat and Boola in the first instance, have been suborned to give evidence. There are discrepancies in the evidence of Jumyat and Boola as to where the witnesses Azumkhan and Bhadurkhan were previous to the assault; Boola made them out to have been in a spot where they could not possibly have seen anything of the assault. On this being brought to his notice, he contradicted his first statement, and mentioned a totally different spot; even then his statement does not tally with that of the two witnesses themselves. Witness No. 7 (Bhadurkhan) has described the particulars of the assault, and stated that he saw Jumyat, Boola, Mendaboo, Mehurbanboo, and the deceased Moojat assaulted, but could not identify any of the prisoners. This witness's story of the particulars of the assault differs from that of Boola and Jumyat, &c.: he has deposed that the deceased was the first who was assaulted, whereas the others have deposed that he was one of the last assaulted. Witness No. 6 (Azumkhan) has also described the particulars of the assault, but his evidence is not to be relied on, for before the Magisterial Authorities he declared that prisoner No. 2 (Sidur) was the person who struck the deceased with the stick, whereas before this Court he declared it was prisoner No. 4 (Jiji), and denied that he had ever accused prisoner No. 2 (Sidur) of having struck the deceased. This witness, moreover, declared that he knew *all* the prisoners by sight, and that they were *all* present at the time of the affray; but on being cross-examined, and asked whether he could pick out the female prisoners if they were placed

among other women, he answered that he could not, and that God knew whether they had been present at the time of the affray or not. The Court suspected, from this witness's manner, that he swore to the identity of all the male prisoners, as well as the female prisoners, merely because they were all on trial together, and to test him the Court called some Koonbees and made them place themselves among the prisoners, and then desired the witness to pick out the prisoners, but he could not point out all of them. The third witness (Moojat) having died before the case came on for trial, the deposition given by him before the Police Authorities has been recorded, and from that it appears that he at first accused prisoner No. 1 (Bapoojee) of having knocked down and kicked the deceased, but at a subsequent examination also accused prisoner No. 3 (Jeysung) of having assaulted the deceased with a stick. Witness No. 13 (Fajoo), whose sight is very bad, swore to the identity of the first five prisoners ; but, in order to put him to the test, the prisoners were made to change places with one another, and the Court's surmise that no dependence could be placed on his recognition of the prisoners proved correct : as this witness, in the Court-room, which was very light, mistook one prisoner for another, it is quite evident that he could not have recognised them at the time of the affray, for the night was dark, and it was raining at the time. The Hospital Assistant, Gopalrow (witness No. 11), has deposed that the corpse of the deceased Mojdeen was in such a decomposed state that it was impossible to ascertain the cause of death. The Naique Gensing (witness No. 21), has deposed that on the evening in question, the prisoner No. 1 (Bapoojee) brought his brother, prisoner No. 4 (Jiji), to the 'thana,' and said that his brother had been assaulted by some Mussulmans, and that the tiles of their house had been broken ; he (the witness) therefore accompanied them to

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the spot where the affray had occurred, and found that some tiles had been broken, and on going to the house of Jumyat and Boola, and asking them why they had committed the assault, these two preferred a counter charge against the prisoners, and said that they and their females had been assaulted, and they all exhibited their wounds and bruises; but not one of the complainants breathed a word about the deceased Mojdeen having been assaulted, nor was the deceased Mojdeen seen by witness that night. In fact, the witness was not informed of Mojdeen having been assaulted until the next morning, after Mojdeen's death. The Mookhee, Tarkureem (No. 21), fully corroborates the Naique's deposition. Now, according to the statements of the complainants (Jumyat and Boola), the deceased must have been dying at the very time that the Naique and Mookhee arrived and made inquiries about the assault, yet, strange to say, these two complainants did not show the deceased to them or even report that he had been assaulted. The complainants declare that they did show the deceased to them and mention that he had been assaulted, but the Court does not believe their story, for what motive could the Naique and the Mookhee (the latter is of the same caste as the complainants, Jumyat and Boola) have for denying that anything was mentioned to them regarding the deceased having been injured in the affray? The evidence of the Mookhee, the Joint Police Amuldar, and others, proves that the deceased was a very old, feeble, and infirm man, and scarcely able to rise from his cot without assistance; therefore their story of his having gone into the midst of the affray is not to be credited. The evidence in the case shows that he had been ill from fever and diarrhœa, and on the morning of his death was unable to speak; his death may therefore have occurred from disease, and not from any violence; and the Court strongly suspects that the complainants (Jumyat and

Boola), who have, while giving their depositions, exhibited great animosity against the prisoners, have taken advantage of the deceased having died during the night to attribute his death to injuries received at the hands of the prisoners: the bruise on the hip bone, attributed to the blow of a stick, may have been caused by the deceased having laid on that side during his illness; some of the witnesses have, in fact, attributed the bruise to this very circumstance. The Court, upon a careful consideration of all the circumstances, is of opinion that it is not proved that the death of the deceased was occasioned by any injuries received at the hands of the prisoners, and it is extremely doubtful whether the deceased was assaulted by any of the prisoners, and therefore acquits them of the charge of murder.

Prisoners Nos. 1, 2, 3, and 5 (Bapoojee, Sidur, Jey-sing, and Jey-sing Nurotum) have unsuccessfully attempted to prove *alibis*, and the evidence of the two witnesses Jiwa and Bhugwan (Nos. 44 and 45), cited by prisoner No. 4 (Jiji) to prove that, instead of his assaulting the prosecutors, they assaulted him, is not to be depended upon. The Court considers it proved that prisoners Nos. 1, 2, 3, 4, and 5 (Bapoojee Adjoo, Sidur Adjoo, Jey-sing Adjoo, Jiji Adjoo, and Jey-sing Nurotum) assaulted Jumyat and three others; they are accordingly found guilty of the second count, viz. serious assault; in having, on or about Friday, 8th August 1856, (corresponding with Shrawun Shood 7th, Samwut 1912,) in the limits of the village of Balara, Talooka Tasra, Zillah Kaira, beaten and wounded with sticks Jumyat Bowdeen, Mehurbanboo, Boola, and Mendaboo, and thereby caused them great bodily suffering.

As the prisoners Nos. 6 to 14, Dunbai, wife of Bapoojee Adjoo; Banjee, wife of Sidur Adjoo; Amba, wife of Munore Bechur; Sukbai, wife of Dialjee Kulan; Kalidas Purbhoodas; Nuthoo Madowjee; Dajee Nuthoo;

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Baji Sukheldas; and Heera Gala, do not appear to have taken any part in the affray, or in any way instigated the other prisoners, the Court considers them entitled to an acquittal; they are therefore acquitted and discharged.

After taking into consideration the nature of the offence proved against you, prisoners Nos. 1 to 5 (Bapoojee Adjoo, Sidur Adjoo, Jeysing Adjoo, Jiji Adjoo, and Jeysing Nurotum), the extent of injuries received by the complainants, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXIX. Clause 1st, of 1827, the sentence of the Court is, that each of you be imprisoned and kept to hard labour for four (4) years.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The evidence has satisfied the Session Judge that the prisoners were guilty of a serious assault: it is a mere question of evidence, and I would defer to the opinion of the Session Judge who tried the case. There is no doubt, however, but that the prosecutor and his party have greatly exaggerated all that took place, and the Session Judge has not believed their story. I think then that the sentence he has passed upon the prisoners, who by the way were the first to complain, is very heavy. I would therefore mitigate the sentence to six months' imprisonment with hard labour, and to furnish security for three years in two sureties of Rs. 100 each.

W. H. Harrison,
Puisne Judge.

Minute by Mr. Harrison.—I do not see cause to interfere with the conviction in this case, believing that the prisoners were all concerned in an affray in which blows were given and taken. The Session Judge rightly acquitted the prisoners of the charge of murder, which was evidently trumped up against them by their opponents, the complainants; and considering how much exaggeration has been resorted to for the purpose of

getting the prisoners severely punished, and how much of the evidence was rightly objected to on this score, and the fact that no lethal weapon was used on the occasion (as I think must be justly inferred), the punishment appears to me very severe, and I would materially mitigate the sentence.

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Resolution of the Sudder Foujdaree Adawlut.—The sentence is mitigated to six months' imprisonment with hard labour, and each to give security for future good conduct for three years in Rs. 100.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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TANNA.

[Case No. 19 of the Criminal Return of the Magistrate of Tanna for February 1857. Tried by the Acting Deputy Magistrate, DADOBA PANDORUNG, on the 26th and 27th February 1857. Confirmed by the First Assistant Magistrate in Charge, H. B. BOSWELL, on the 2nd March 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Tukaram Janoo.]

Prisoners.—No. 1, Ragho Ramchundra, Sonar, aged 37.

An Offence de-
clared Penal by
their Religious
Law.

2, Tukaram Janoo, Sonar, aged 25.

3, Vishnoo Moreshwer, Brahmin,
aged 22.

Charge.—An offence declared penal by their religious law (Regulation XIV. Section I. Clause 1st, para. 7, of 1827); in having, on the 23rd February 1857, (corresponding with Margsheersh Wud 14th, Shuké 1778,) in Kusba Tanna, Talooka Salsette, Zillah Tanna, gambled together with dice, the one winning from the other.

Prisoners plead not guilty.

Finding and Sentence by the Acting Deputy Magistrate.—The only evidence which is forthcoming in this case is that of the Policemen who apprehended the

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prisoners. Three of them depose to the fact of their having seen prisoners sitting together, with some money placed before prisoners Nos. 1 and 2. Three of the four Police Peons, who went upstairs, state that they saw witness No. 1 open the door of the room in which the prisoners were sitting; but it is only witness No. 1 who states with something like precision that he saw some dice in the hands of prisoner No. 1, which he was seen moving and then putting in his 'pugree.' It is with some hesitation that witness No. 2 would depose to this point; but at last he stated that he had seen dice in the hand of prisoner No. 1, though he did not state that he saw him put them in his pugree. This part of the story must also be received with some degree of caution, for it is evident that all the Policemen rushed in number into the house, and four of them went upstairs close to the room in which prisoners were found. This must have created some noise, and it can hardly be supposed that prisoners could be so negligent as to have kept the money before them and the dice in their hands. None of the Policemen can depose to the fact of his having seen prisoners actually gambling there, but has left this fact to be inferred by the trying Authority from such doubtful preliminaries. If they had cautiously worked together, and taken some other persons with them as witnesses, they would have been able to supply a clearer view of the true fact. The only conclusion which the Acting Deputy Magistrate can draw from the investigation into this case is that strong suspicion may attach to the prisoners with regard to the offence with which they are charged, but they cannot be convicted of the same. They are therefore acquitted and discharged.

It is resolved that the prisoners be sent to the Superintendent of Police, for his taking such precautionary measures regarding them as he may deem proper.

The conduct displayed by the Policemen, and parti-

cularly by witnesses Nos. 1 and 2, on this occasion, appears to the Acting Deputy Magistrate to be highly reprehensible, inasmuch as they exercised not only no vigilance on the occasion of entering into the house of prisoner No. 3, but by far exceeded their authority, by putting iron cuffs on the hands of the prisoners when they took them first from the house of prisoner No. 3 to the Superintendent of Police, which there was no occasion for them to do, much less when their number exceeded that of the prisoners themselves. This conduct of the Policemen will be brought to the notice of the Superintendent of Police.

Confirmation by the First Assistant Magistrate in Charge.—From the evidence in this case, the Assistant Magistrate has no doubt, that the prisoners are guilty of the charge preferred against them. The fact that prisoner No. 3 attempted to throw away one of the dice is attested by all four witnesses for the prosecution, and two of them attest the fact that two of the dice were at first seen in the hands of prisoner No. 1, who was shaking them, while three of these witnesses at first stated they saw him place them in his turban, although of these witness No. 2 now seems doubtful of the fact. The contradictory nature of the evidence given by the prisoners and their witnesses confirms the above view of the case, while, had the evidence of the four witnesses for the prosecution been falsely got up, it is probable they would have been at more pains to agree exactly in some of the details in which they now slightly differ; also, it is more likely that, in the haste of a real surprise and arrest, the Sepoys would forget to satisfy themselves through a chink in the door or some other place that prisoners were actually gambling (as they probably might have done) than that this should have been omitted in a previously concerted plot to form part of the tale. The Assistant Magistrate is satisfied that the prisoners were arrested with the money and dice

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about them, and were first seen sitting on the ground, prisoner No. 1 with the dice in his hand, and prisoners Nos. 1 and 2 with the money before them, which appears quite sufficient to prove them guilty of gambling; and though there is reason to fear the Police overstepped their powers, that will not exculpate the prisoners.

The case, however, was one the decision of which was within the powers of the Deputy Magistrate, and so he had power to acquit; and the prisoners having been once acquitted, and not having been sentenced, the Assistant Magistrate is unable to interfere, nor, in the absence of proof as to prisoners' former gambling habits, does it seem desirable.

Under these circumstances the Assistant Magistrate sends the prisoners to the Superintendent of Police, to take their security as he thinks fit, also to make inquiry into the allegation made by prisoners that they were beaten by the Police, after which the papers should be sent to the Deputy Magistrate for perusal.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to certify the papers and proceedings of the Deputy Magistrate, and to report on the necessity for taking the security.

Return by the Magistrate.—In returning this Precept within the specified time, the First Assistant Magistrate in Charge begs to certify the papers and proceedings connected with the case of Tukaram Janoo, called for in the extract from the Court's proceedings which accompanied this Precept, and to report that Tukaram, with two others, was tried by the Hoozoor Deputy Magistrate, Mr. Dadoba Pandoorung, on the 26th February last, for having gambled with dice, and acquitted. The Superintendent of Police not thinking the case had been properly disposed of, drew the attention of the First Assistant Magistrate in Charge to this, and the First

Assistant Magistrate in Charge, although not thinking it necessary that the case should be re-tried and committed to the Sessions Court, was yet of opinion that the charge was proved against the prisoners, and therefore forwarded them to the Superintendent of Police for security to be taken from them, and that Officer accordingly required the said Tukaram, under Regulation XII. of 1827, Section XXV., to furnish security that he will not commit robbery, receive stolen goods, or gamble, for a period of two years, in one security of Rs. 100; in default, the security to suffer six months' imprisonment.

The First Assistant Magistrate in Charge begs to bring to the notice of the Court, that the Policemen alluded to in the proceedings now forwarded have been last month tried for having assaulted a Parsee inhabitant of Tanna, and convicted and sentenced to pay each a fine of Rs. 15, commutable to one month's imprisonment.

The original petition is returned.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I do not think the case sufficiently strong to justify security being required. There is no doubt the Deputy Magistrate's view of the case is the correct one, and I think there can be very little doubt but that the Police exceeded their authority in this, as they are proved to have done in a subsequent case.

Minute by Mr. Harrison.—The prisoners were not charged with robbery; and there does not seem occasion to call upon them to give security not to rob, because they were accused of gambling. Neither is there reason apparently for taking security against gambling, which is immoral, but does not affect injuriously others in any direct manner, so as to call for such preventive measures. The order should be annulled.

Resolution of the Sudder Foujdaree Adawlut.—The order for security is annulled.

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An Offence declared Penal by their Religious Law.

W. E. Frere,
Puisne Judge.

W. H. Harrison,
Puisne Judge.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

AHMEDNUGGUR. [Case No. 11 of the Calendar of the Ahmednuggur Sessions Court for 1857. Committed by the First Assistant Magistrate, F. S. CHAPMAN, on the 23rd March 1857. Tried by the Session Judge, J. W. WOODCOCK, on the 6th and 7th April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Wilful Murder,
attended with
Robbery.

Prisoners.—No. 1, Jan Mahomed wulud Futay Mo-
homed, Mussulman, aged 22.
2, Bhagee, Wife of Khundoo, Bheel,
aged 20.

Charge.—Wilful murder, attended with robbery (Regulation XIV. A. D. 1827, Section XXVI. Clause 1st, and Section XXXVI. Clauses 1st and 3rd); in having, on the 16th of March 1857, (corresponding with Falgoon Wud 5th, Shuké 1778,) in the village of Bhagoor, situated within the Nassick Talooka, of the Ahmednuggur Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Babia wulud Dhondéebhaee, a child of about seven years of age, by strangling him with a cord, and then and there possessed themselves of certain silver ornaments on his person, valued at Rs. 28-9-0.

Prisoners plead guilty.

J. W. Woodcock,
Session Judge.

Finding and Sentence by the Sessions Court.—The only thing which made me hesitate to pass sentence yesterday, as soon as the case had been brought to a close, was the fact of witness No. 5 (Larojee), a Lance Naique of the Policé, having held out a promise to the prisoner No. 1 (Jan Mahomed) of immunity from harm if he spoke the truth and pointed out the dead body. He further deposes that in many ways he gave 'bhooltap' (artifices to persuade) to him; but upon further consideration I do not see any reason for allowing these words of the Lance Naique to operate in favour of prisoner, because the pri-

soner confessed his crime in every stage of the proceedings, and the corroborative evidence is so very strong against him. I do not find that any inducement to confess was held out to the prisoner No. 2 (Bhagee). As I write, it makes me shudder to think how these wretches could have brought themselves to kill a poor innocent child whom they were in the daily habit of seeing. There is not a single extenuating circumstance, for, although people have been repeatedly warned not to load their children with ornaments so as to excite the cupidity of cold-blooded wretches like the prisoners, yet it is very hard that a man cannot indulge his vanity, and indulge his child, by putting a few ornaments upon it, without incurring the risk of having it murdered.

I do not see any reason why a capital punishment should not be passed upon both prisoners, under Section XXVI. Clause 4th, Regulation XIV. A. D. 1827.

The prisoners are found guilty of wilful murder, attended with robbery; in having, on the 16th of March 1857, (corresponding with Falgoon Wud 5th, Shuké 1778,) in the village of Bhagoor, situated within the Nassick Talooka, of the Ahmednuggur Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Babia wulud Dhondeebhaee, a child of about seven years of age, by strangling him with a cord, and then and there possessed themselves of certain silver ornaments on his person, valued at Rs. 28-9-0; and the Court passes sentence, under the aforesaid Regulation, as follows:—

That you, Jan Mahomed wulud Futay Mahomed, Mussulman, and you, Bhagee, wife of Khundoo, Bheel, be taken to the usual place of execution at Ahmednuggur, and there be hanged by the neck till you be dead.

This sentence is subject to the final confirmation of the Court of Sudder Foujdaree Adawlut, to which the case will be referred.

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Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Keays.—The prisoners in this case having pleaded guilty before the Session Judge, I am prepared to confirm conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

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BELGAUM.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 11 of the Calendar of the Dharwar Sessions Court for 1857. Committed by the Deputy Magistrate, RAGHOB JUNARDHUN, on the 7th January 1857. Tried by the Session Judge, A. W. JONES, on the 4th, 17th, 24th, and 25th February 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder.

Prisoner.—Yelia bin Balapa Naique, Bedur, aged 25.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, of A. D. 1827); in having, on Friday the 2nd January 1857, (corresponding with Poush Shood 6th, Shuké 1778,) in the jungle of Kunburee, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, without justifiable or extenuating cause, deprived of life one Mylee kom Yelia, by inflicting on her person several wounds with stones, from the effects of which she then and there died.

A. W. Jones,
Session Judge.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that a man of the village of Hoobekovee left his village on the morning of Thursday the 1st January with his wife, and that they separated some way off the village; that he did not return home till Friday evening; and that on finding his wife did not make her appearance that night, he started in search of her, and

found her dead body on the road about half-way between his own village and that of Kunbурgee.

He reported the matter ; and the Patel of Kunbурgee and others came out, and an Inquest was soon after held by order of the Police Amuldar of Padshapoor, the report of which was proved before the Court and recorded, and shows that this woman had died of blows with stones on the head and face. As the complainant had mentioned that deceased was in the habit of consorting with the prisoner, he was searched for but without success, until early on the Sunday morning, when he made his appearance, of his own accord, at the Kutcheree in Belgaum, as shown by the Sepoys (witnesses Nos. 13 and 14), and admitted at once that he killed the woman in a quarrel on the Friday morning.

It is shown by the Police Patel of his village that he was absent from the Wednesday of that week, and that he did not return at all, and was next heard of as in custody at Belgaum.

When the case was sent up to the Deputy Magistrate, the prisoner, as appears from the proceedings, pleaded guilty, and admitted without reserve his statement detailing the murder ; and when arraigned before this Court, it is evident he had not made up his mind what defence to make, as he began by saying that the liquor-seller had killed the woman, and then said that the liquor-seller and he had done it together ; on which the Session Judge stopped him and recorded a plea of not guilty.

In the course of the trial he asked for a Vakeel, and he denied his statement ; but this was proved before the Court to have been given voluntarily before the Police Amuldar of Padshapoor, and to have been freely admitted by him also before the Deputy Magistrate ; and the Session Judge considers, therefore, it may be used against him.

It is to the effect that he was with this woman on the

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road near Kunbурgee, when the liquor-seller of her village came up and began to pull her away with him ; that he (the prisoner) interfered, and beat the liquor-seller, who ran away ; and that, as the woman was angry with him for this interference, he knocked her down on the ground, and then threw a large stone at her, which hit her on the face and killed her. He then accounts for his absence during the rest of that day (Friday) and Saturday, and says that, as he thought he must die for the crime, he had better go and inform the Sirkar, and accordingly went into Belgaum for the purpose.

And he is accordingly convicted of murder as charged ; in having, on Friday the 2nd January 1857, (corresponding with Poush Shood 6th, Shuké 1778,) in the jungle of Kunbурgee, in the Padshapoor Talooka, in the Belgaum Division of the Dharwar Zillah, without justifiable or extenuating cause, deprived of life one Mylee kom Yelia, by inflicting on her person several wounds with stones, from the effects of which she then and there died.

And after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th, of A. D. 1827, the following sentence is passed :—

That you, Yelia bin Balapa Naique, be transported across the seas for the term of your natural life.

Subject to the confirmation of the Sudder Foujdaree Adawlut.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—There cannot be a doubt of the prisoner's guilt. In his petition to us he confesses to having seen Bhyroo commit the murder, but as that was on Friday he would have reported it before Sunday if it was really true. That he was beaten and made to confess is not to be believed, as the case was before the Deputy Magistrate on Wednesday, when he pleaded guilty to the charge.

I therefore feel no hesitation in confirming the conviction and sentence, though the Session Judge has been satisfied with the least possible amount of evidence. The witnesses Rama as he is called by the Session Judge, Moossia as the Deputy Magistrate calls him, and his wife Deamee, ought to have been examined by the Session Judge, to show that prisoner was in Hooleekovee on the days in question ; and the Police ought to have found more evidence to that point.

Minute by Mr. Keays.—I concur in the conviction in this case. It is in evidence that the prisoner absconded immediately after the murder, and that he gave himself up of his own accord after two days ; that he then gave a voluntary confession, which he confirmed before the Deputy Magistrate, and moreover pleaded guilty before that Officer. The Patel's evidence corroborates the facts set forth in his confession, and the prisoner's own plea before the Session Judge shows that he was undecided as to the line of defence he should set up. He now repudiates the confession, and accuses the liquor-seller of having killed Mylee, but of this there is no evidence whatever ; and, looking at the case as a whole, I have no doubt of the prisoner's guilt, and would uphold both conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

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KONKUN.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 96 of the Calendar of the Konkun Sessions Court for 1856. Committed by the Acting Deputy Magistrate, DADOBA PANDORUNG, on the 5th December 1856. Tried by the Acting Session Judge, H. P. ST. G. TUCKER, on the 9th, 19th, 20th, 22nd, 23rd, 24th, 26th, 27th, and 29th December 1856. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of prisoners Bhana Pitamber and Narayen Pitamber.]

Robbery by
Night, with Force;
Receipt of Stolen
Property; and
Concealment of
Robbery after the
Fact.

Prisoners.—No. 1, Bhana Pitamber, Guzerathee Kōlee, aged 30.

2, Vishnool Moreshwur Kanudé, Deshast Brahmin, aged 23.

3, Narayen Pitamber, Guzerathee Kōlee, aged 27.

4, Lalla oorff Tribhoowun Roopram, Guzerathee Sonar, aged 31.

5, Bechur bin Hira, Soortee Kōlée, aged 15.

6, Pemee kom Hira, Soortee Kōlee, aged 35.

7, Doolubh Bhika, Punchal, aged 30.

Charge.—Against prisoners Nos. 1 and 2 (Bhana and Vishnool), robbery by night, with force; in that, on or about the 3rd July 1856, (Mitee Ashad Shood 1st, Shuké 1778,) in the town of Tanna, Talooka Salsette, Zillah Konkun, during the night, they did break into the dwelling-house of Luxmeebaye, widow of Govindrao Jairam Potnis, by dividing the bars of a window on the upper story, and, having forced open a chest, did carry therefrom certain boxes containing gold and silver ornaments and jewels, of the estimated value of Rs. 5,314-12-0, the property of the said Luxmeebaye. (Regulation XIV. Sections XXXVI. and XXXVII. Clause 3rd, of 1827.)

Against prisoners No. 1 (Bhana), No. 2 (Vishnool),

No. 3 (Narayan), No. 4 (Lalla *alias* Tribhoowun), No. 5 (Bechur), and No. 6 (Pemee), criminal receipt of stolen property; *in that, at various times, between 3rd July and 27th November 1856, (Ashad Shood 1st, and Kartik Wud 30th, Shuké 1778,) and at places not known, in the island of Bombay or Zillah Konkun, they did receive portions of the property stolen from Luxmeebaye, widow of Govind Jairam Potnis, as follows:—

Prisoner No. 1,	property to the value of Rs.	842	8
Prisoner No. 2,	ditto ditto	„	325 8
Prisoner No. 3,	ditto ditto	„	1369 9
Prisoner No. 4,	ditto ditto	„	6 0
Prisoners Nos. 5 and 6,	ditto	„	250 0

and, though knowing, or having evident grounds for suspecting, the same to have been stolen, did give no information to any Police Officer. (Regulation XIV. Section XLI. of 1827, and Act XVI. of 1851.)

Against prisoner No. 7 (Doolubh) with concealment of robbery after the fact; in that, some time in the month of September or October 1856, (Bhadrapud 2nd, and Kartik Shood 3rd, Shuké 1778,) in the island of Bombay, he became aware of the existence of the whole or part of the above stolen property in the possession of the other six prisoners, or of some of them, and did give no information to any Police Officer. (Regulation XIV. Section I. Clause 5th, of 1827.)

The prisoners plead not guilty.

Finding and Sentence by the Sessions Court.—The prisoners Bhana Pitamber and Narayan Pitamber are charged, the former with robbery by night, with force, at the house of Luxmeebaye, widow of Govind Jairam, to the value of Rs. 5,314-12-0, and the latter with the criminal receipt of stolen property to the value of Rs. 3,169-9-0. There is a second charge also against the prisoner Bhana Pitamber, of the criminal receipt of stolen property to the value of Rs. 842-8-0.

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The facts of the forcible entry into Luxmeebaye's house, and the carrying off the property specified in the charge, have been established by the evidence of witnesses Nos. 2 and 5, and, in the case of the prisoner Bhana, are corroborated by the discovery of a large quantity of property in the possession of his relatives, of the acquisition of which he has been unable to give any account. Among the articles discovered in the possession of the boy Bechur (witness No. 12), the cousin of the prisoners, and which are admitted to have been given by the prisoner Bhana to his aunt, the boy's mother, are five pearls of peculiar size and appearance, which have been identified by the nephews of the complainant as some of the pearls which were in a nose-ring that was stolen. The pearls are of peculiar shape and size, and, in my opinion, might be readily identified ; and in the books of the complainant's husband (vide extract No. 20) there is an entry of the purchase of two pearls which correspond in size and weight with the two larger pearls identified. Now, in the first place, it is *prima facie* improbable that a horse-keeper, like the prisoner Bhana, should have honestly acquired pearls of this description, and his being unable to show how he became possessed of these ornaments tells strongly against him. The boy Bechur, and his mother Pemee, have now pretended that the ornaments found in their possession were given to them by Bhana before the date of the robbery ; but it is clear that they have perjured themselves on this point, as the witnesses Nos. 21 and 22 establish that a silver chain, which is among the ornaments, was not made till long subsequent to their alleged delivery. The identification of the pearls is, in my opinion, quite satisfactory ; and, in addition to this fact, it has been proved that, when first transmitted to Tanna, the prisoner Bhana confessed his share in the robbery, and gave an account which corroborated the tale told by the accomplice. Under these circumstances no reasonable doubts

can be entertained of his guilt, and I convict him of robbery by night, with force, as set forth in the charge on which he has been arraigned.

In the possession of the prisoner Narayen were discovered articles to the value of Rs. 1,230-9-0, which have been clearly identified as part of the stolen property. The prisoner professed entire ignorance of these articles, but has since declared that they were given to him by the pardoned accomplice, Dulput Mooljee. The manner in which the ornaments were found, and the conduct of the prisoner on the occasion, as deposed to by witnesses Nos. 6, 7, 8, and 9, convincingly establish the falsity of this assertion of the prisoner, and his guilty knowledge of the character of the property. I see no reason to suppose that the Bombay Police, and the witness No. 9, who appears to be a respectable merchant, have conspired against the prisoner, and I believe their testimony. I therefore convict the prisoner Narayen Pitamber of the criminal receipt of the stolen property, to the value of Rs. 1,230-9-0.

The prisoner Bhana Pitamber is an old offender (vide witnesses Nos. 6, 7, and 8), and I sentence him (Bhana Pitamber) to be imprisoned and kept to hard labour for the period of seven (7) years from this date. (Regulation XIV. Section XXXVII. Clause 3rd, of 1827.)

The prisoner Narayen Pitamber was in service as a coachman on a salary of Rs. 10 monthly, so that no mitigating circumstance can be pleaded in his case. I sentence him (Narayen Pitamber) to be imprisoned and kept to hard labour for the period of five (5) years from this date. (Regulation XIV. Section XLI. Clause 1st, of 1827.)

Both the prisoners are further, under Act XVI. of 1850, fined thirty-nine hundred and sixteen (3,916) rupees and six (6) annas, the said fine to be levied

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by the distress and sale of their goods, and such portion of it as may be recovered to be given to the complainant, Luxmeebaye, widow of Govind Jairam, in compensation for the loss which she has suffered.

The witnesses Pemee and Bechur are to be transmitted to the Magistrate, with copies of the depositions of the witnesses that refer to them, in order that they may be committed for trial for perjury, on account of their statement that the prisoner Bhana delivered to them the ornaments found in their possession in the last Holee.

Ramchunder Kesheo and Damodur Mowjee, the persons who have acted as counsel for the prisoners in this case, have shown themselves wholly unfitted for their duties, and I therefore prohibit their future employment as counsel in the Sessions Court. A letter will be written to the Magistrate and Assistant Session Judge, informing them of the prohibition, and a Proclamation will be made for the information of the public, in order that parties may not be misled to engage their services.

There appears to be no further ground for detaining the man Doolubh, and he is ordered to be discharged.

Petitions from Prisoners Bhana Pitamber and Narayan Pitamber.—[Praying that the sentence passed against them might be annulled.]

Precept issued to the Acting Session Judge by the Sudder Foujdaree Adawlut.—[Calling for the papers and proceedings connected with the case.]

Return by the Acting Assistant Session Judge in Charge.—[Certifying the papers and proceedings.]

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I see no cause for interference in this case, which the Session Judge has conducted with great pains and patience. The sentences are heavy, but I think merited. The orders against the Vakeels being allowed

to practise have, I think, been annulled on the Vakeels' petitions,* and no further notice need be taken of them.

Resolution of the Sudder Foujdaree Adawlut.—The petitions are rejected.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Petition from Erapa bin Nursapa to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Dharwar, T. OGILVY, on the 19th of November 1856, for Report.]

DHARWAR.

Petition from Erapa bin Nursapa.—[Praying that an order of the Magistrate, depriving him of possession of property, might be reversed.]

Appeal against an Order of the Magistrate, giving Possession of Property.

Precept issued to the Magistrate by the Sudder Foujdaree Adawlut.—[Calling for a report.]

Report by the Magistrate.—The petitioner (Erapa bin Nursapa) complains that certain property, held in common by himself and his brother Dewapa bin Nursapa, had, on a partial report made by the Mamlutdar of Hoobleë, been placed in the sole possession of the latter, and he prays for redress.

T. Ogilvy, Magistrate.

Referring to the proceedings held in this case, it appears that the dispute has been going on ever since September 1850; and as it has been found, on repeated inquiries made from that time to the present, that the property in dispute has always been in the occupation of Dewapa bin Nursapa, he has from time to time been confirmed in possession, and his opponents have been referred to the Civil Court, if dissatisfied with the decision in the Magisterial Department. The Magistrate has merely confirmed possession, without entering into the merits of the matter in dispute.

Further Precept issued to the Magistrate by the Sudder Foujdaree Adawlut.—The Magistrate is to be

* Vide page 378 to 381, Vol. VII. of these Reports.

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requested to report further, whether he ordered locks to be removed that had been on for several years (since 1850) ; also, to certify the papers and proceedings.

Return by the Magistrate to the above Precept.—A return to the within Precept is hereby made by certifying the papers and proceedings in the case of Erapa bin Nursapa.

The Magistrate did not order the removal of any locks, but simply confirmed possession.

The English summary of the proceedings has been unavoidably delayed by the pressure of other business.

English Summary of the Proceedings in the Case.—On the 25th September 1850, Dewapa bin Nursapa complained to the Police Amuldar of Hooblee, charging Ranapa and Mankapa, and four others their servants, with having obstructed and maltreated him when proceeding to open the lock of a room containing the household property, the management and possession of which he alleged had been all along with him. The investigation into the complaint resulted in each of the accused being fined Rs. 4, and further bound over for six months to keep the peace towards the complainant, in their personal recognisances, to the extent of Rs. 25 each.

At a subsequent date (viz. 9th October 1850) complainant again presented a petition to the Police Amuldar urging against Ranapa a repetition of the offence for which he had been punished on the previous occasion, inasmuch as he had prevented petitioner having access to the room alluded to when about to open it for the purpose of obtaining therefrom certain articles held by him in pledge which the owners wished to redeem. Ranapa was duly warned of the consequence of a breach of the peace, and directed to the Civil Court for redress, if he considered himself entitled to a share of the property.

Under date 9th January following, Ranapa bin Nūrsapa Gondkur petitioned the Magistrate against the decision of Mr. Stewart, First Assistant Magistrate, who, he declared, referred both Dewapa and himself alternately to the Civil Court, notwithstanding he (petitioner) was the legal heir, and as such had a preferable claim to the possession and management of the patrimonial estate; a decision which, he contended, was contrary to practice and Regulations. The chief grounds on which petitioner rested his claims were, 1st, his being the eldest member of the family; and, 2ndly, of Dewapa having forfeited his title from the fact of his adoption during their father's lifetime by one Shetyappa of Aloor. He then proceeds to say—"I can neither read nor write, nor yet cast accounts. I can only sign my name. For which reasons Dewapa was in a manner my Moo-talik. I confided in him. It was the practice, after the business of the day, for Dewapa to lock the room and deliver the keys to me. In consequence of the great sway he held in the management of the affairs, he now evinces a desire to appropriate the property to himself, some of which he has already made away with by forcing open the lock of the room. I represented this to the Mamlutdar, who referred me to law. I have obtained a clue to the money and documents fraudulently removed by Dewapa to another house. Therefore, either confiscate the property removed and restore it to me, or keep possession of the whole and deliver it to him who eventually establishes his claim. If some such precaution is not taken, there will be constant feuds in the family. I am unable to come in person on account of these repeated quarrels, and write therefore by post. My agent is empowered to answer all inquiries on my behalf."

The above was referred, on the 14th idem, to the First Assistant Magistrate (Mr. Stewart), who reported, on the 18th, that, having seen no reason to interfere, he directed

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the parties to seek redress by a Civil action. Petitioner was informed accordingly on the 28th January by the Magistrate.

On the 29th May 1851, Ranapa petitioned the Police Amuldar of Hooblee to the effect that, during his absence on a visit to his daughter, Dewapa was occupied breaking open the locks with the aid of a blacksmith, when he arrived and remonstrated with him (Dewapa), who jostled with and beat him. He further accused Dewapa with wanting to make away with the property. On the inquiry instituted, Ranapa modified his previous statement, in so far that the locks of the rooms were correct, with the exception of the lock of the room facing west, which alone had been forcibly opened by the assistance of the blacksmith. This room, he affirmed, was in his possession; that nothing, however, had been abstracted from it, and that he withdrew his charge as to the assault on him. The defendant (Dewapa) being questioned, acknowledged having broken the lock with the assistance of the blacksmith, but justified the act in consequence of Ranapa having refused him the key.

Both parties were informed that matters were to continue as heretofore in conformity with previous orders; that they were to go to law; and enjoined that, in the event of any further quarrels arising, they would be punished.

Dewapa, however, on the 16th September 1853, accused Ranapa before Mr. Arthur, Third Assistant Magistrate, of breaking open the lock and abstracting some of the property from the room in question, but failed at the investigation to substantiate the charge.

Again, in 1855 (on the 24th January), Ranapa bin Nursapa presented a petition to the Joint Police Amuldar of Hooblee, in which he accused Dewapa of removing the original locks of the room in the 'sopa' containing the property, and substituting others; also of making

away with some of the articles from the room : whereupon the Joint Police Officer reported, under date 25th June 1855, to the Supernumerary First Assistant Magistrate (Mr. Pelly), his proceedings on the occasion after personally visiting the premises, and the complete failure of the complainant to substantiate the charge he made. On date 15th July idem, Mr. Pelly called for all previous papers and proceedings on record connected with the case, and was informed by the Joint Police Officer, on the 25th August, that his records contained none, but forwarded copies of documents numbered 7, 8, 9, and 10, procured from the Police Amuldar's Office. These are identical with those already noticed of 25th September 1850 (from Dewapa), and following petitions from the disputants.

Mr. Pelly, on a perusal of the papers, confirmed the previous decisions in the case, and directed that the room in dispute be allowed to remain in the possession of the defendant (Dewapa), if it had always been in his custody. Date of endorsement 17th September 1855. On the 14th November following the Joint Police Officer reported having given effect to the above by restoring the room to Dewapa.

The carrying out of the order from the Supernumerary First Assistant Magistrate elicited a renewed appeal to the Magistrate from Ranapa, under date 29th September 1855. After recounting the previous proceedings held for the past seven years on their complaints, he prayed for a fresh inquiry into their relative claims, and an Interim Order to the Joint Police Officer suspending execution of Mr. Pelly's Injunction (of 17th instant) until the case had been carefully sifted *de novo* by the Magistrate. The petition was endorsed the same day, calling for an early report from Mr. Pelly, who directed the Joint Police Officer, under date 1st October, to forward the case to the Hoozoor.

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In forwarding the papers, the Joint Police Officer reported (6th October 1855) that, in compliance with the Order from Mr. Pelly, the room in dispute had been made over to Dewapa on the 26th September.

Petitioner was informed by the Magistrate, on the 18th October, that, as he had failed to prove his statement, Mr. Pelly's Order to the Joint Police Officer had been confirmed by him.

On the 14th November 1855 the Joint Police Amuldar of Hooblee reported to Mr. Pelly the particulars of a fresh complaint laid before him by Dewapa against Ranapa's family and others named, who, he stated, refused to let him open the room in dispute, and requested instructions as to the course he was to follow under the circumstances, as his (the Amuldar's) threats and persuasions proved of no avail. He was directed, in reply, on the 20th instant, to proceed against the offenders in the usual form, and fine them to the extent of his authority, warning them at the same time of the serious consequences of any renewed attempt on their part to commit a breach of the peace. The Joint Police Officer acted accordingly.

Meanwhile, on the 15th idem, Senapa (Ranapa's son) petitioned Mr. Pelly against the Joint Police Officer, whom he accused of trespass, and occasioning a serious disturbance in the house, by setting four Peons on him and his mother. He protested against any such tyranny and oppression on the part of the Police subordinates, or their interference in matters purely civil, and prayed for protection and redress either from the Police Amuldar (Mamlutdar) or the Hoozoor, before either of whom he was prepared to substantiate his charge. Petitioner likewise attributed the violence of the Joint Police Officer to a leaning towards his opponent Dewapa.

This complaint was referred, on the 19th instant, to the Police Amuldar for report, by whom an explana-

tion of the circumstances was requested from the Joint Police Officer on the 22nd idem. The latter referred to his communication to Mr. Pelly, dated 14th November (instant), a copy of which he submitted, and stated that he had received instructions thereon on the 20th, but experienced difficulty in giving them effect as the parties refused to attend. He desired the Mamlutdar to look to it, since Senapa had intimated that his father (Ranapa) had already presented a petition to him on the subject, which he (the Mamlutdar) had endorsed.

Whereupon the Police Amuldar addressed the Joint Police Officer, under date 7th January 1856, as follows :—" In your report of the 14th November last to the Hoozoor (Mr. Pelly) you state that the room is under the lock and key of Dewapa, who alone has access to it. State, therefore, whether the room is under lock and key of both Dewapa and Ranapa, or only that of Dewapa. If not under Dewapa's but under that of both, mention how long since, from what date, and what were the orders on the dispute between the parties at the time, and under what circumstances did Dewapa alone obtain possession of the room."

In his rejoinder, dated 10th instant, the Joint Police Amuldar stated that the room was under the lock and key of Dewapa alone, and referred him to the proceedings reported to the Hoozoor on the 25th June 1855, for full particulars.

On the 23rd February 1856, the Police Amuldar, again addressing the Joint Police Officer, stated—" In 1853 Dewapa accused Ranapa of having broken open the lock of the room and removed some property therefrom, and declared that the property contained in it was claimed by himself and Ranapa in common, both of whom had placed their locks on the room. Such being the case, you state that the room was under the lock and key of Dewapa alone. It is not so. The room is

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known to be under lock and key of both. Besides, Dewapa himself admits it in his deposition alluded to, which of itself is conclusive of the room not having been under lock of Dewapa."

The Joint Police Amuldar simply acknowledged receipt of the above under date the 25th, and left it to the option of the Police Amuldar to report the circumstance to the Hoozoor.

In his report to the Hoozoor, under date the 26th instant, the Police Amuldar (Trimbuk Moreshwur) observed, that although from the report of the Joint Police Officer it appeared that Dewapa had the use of the room alluded to, yet from his (Dewapa's) own statement, wherein he charged Ranapa with having abstracted some things from the room "under lock and key of both parties," and the evidence adduced on that inquiry, to the effect that both "claimed an equal share of the property therein," together with the general corroboration of these statements by people disinterested in the issue, it is apparent that Dewapa alone had not access to the room. Under such circumstances, the Police Amuldar submitted that it would be improper to make the room over to Dewapa.

Mr. Gordon, the Assistant Magistrate, endorsed the above papers to the Magistrate, on the 5th March following, and remarked that it appeared from them that both Ranapa (father of the petitioner Senapa, with whom this further inquiry emanated) and Dewapa had the room under their joint control.

The Magistrate thereon called for the previous papers under date 29th March. After an ineffectual search in the Hoozoor Duftur, they were obtained, on the 30th May, from the Acting Second Assistant Magistrate's records, and forwarded on the 16th June following to the Deputy Magistrate for correct information on the point of possession, whether in that of Dewapa, or both his and Ranapa's. The Deputy Magistrate referred the

question on the 22nd July to the Police Amuldar (Naro Ramchunder, newly appointed), who reported as follows under date 13th August 1856 :—

Dewapa being called and questioned in continuation of his previous deposition, accompanying report No. 531, states—“ The room in the ‘majghur’ (centre portion of the house) having been under the lock and key of Ranapa and myself, he removed the locks and abstracted therefrom some of the property deposited in it. I have already stated, in a previous petition, that the room in the majghur had two locks. The room now in dispute on the right side of the sofa I alone had access to, and used therefore to lock and unlock. This room Ranapa had no control over whatever, nor was his lock to it. It was in this room I used to deposit the money, &c. and to transact business.”

In support of his statement nine witnesses were produced, who deposed that “ Dewapa’s paternal uncle, the late Dakapa, being the sole master (or owner), even during his lifetime Dewapa conducted the affairs under instructions from Dakapa. It is ten years since Dakapa’s death, from which period the affairs are solely managed by Dewapa. Ranapa lives apart. In the room to the right of the sofa Dewapa deposits his money and valuables, and there transacts business. We say all this from personal knowledge, having dealings with them.”

On the other hand, Ranapa deposed that “ the room now in dispute at the right end of the sofa, and two in the majghur, another next to the outer door, and one in the loft, in this manner five rooms, containing property, were severally put under lock and key by Dewapa and myself after Dakapa’s death, owing to disputes between us. Up to this day the locks of these rooms have not been removed, and neither of us has had access to the rooms; but (he added) the room in dispute to the right of the sofa was used by both Dewapa and myself.”

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Ten witnesses were called by him to corroborate the above, of whom Nos. 20, 21, 22, 24, 25, and 29 declared —“ Shortly after Dakapa's death disputes arose between Ranapa and Dewapa, when, *as we hear*, each put his lock and key to the rooms, but to which particular rooms each attached his lock, or how many to each room, or how the affairs have been managed since, we are unaware.”

Witnesses Nos. 26 and 28 state that they saw two locks to the room in the sofa, but by whom they were put they know not. Witness No. 23 deposes to the constant feuds between Dewapa and Ranapa for the last two years, and of their having put their individual locks to the room in the sofa, which are on still. Witness No. 27 stated that he was present when the rooms were being locked, and that the room in the majghur alone both Dewapa and Ranapa put separate locks to, but to the room in dispute in the sofa Dewapa placed a lock and *not* Ranapa.

The Police Amuldar then proceeded to the house in person, and states that he found the disputed room in the sofa with but one lock. There are altogether, he states, five rooms in the house, of which one room in the majghur alone is under lock and key of both Dewapa and Ranapa, the other four rooms being under charge of Dewapa, who has his lock on, and who alone has access to them. He next sums up the evidence on both sides, and points to the unsatisfactory testimony of the witnesses on the part of Ranapa, and of his own statement, which was prevaricating, and which he had signally failed to substantiate. Of Dewapa he declares the evidence to be consistent throughout; and adds— “ From the death of Dakapa, Dewapa has had the sole management of the family property; it was he who, on the demise of Dakapa, gave his son Petapa his share of the property; and, further, it is in evidence that he has had a certificate of heirship granted to him by the Court

on the death of Dakapa. Even of Ranapa's witnesses, No. 22 deposes to these facts."

At this period (22nd October), the First Assistant Magistrate, being in charge, directed the Police Amuldar, under the circumstances reported by him, to restore the room in dispute to Dewapa, and refer Ranapa to the Civil Court, reporting his having done so. On the 31st the Mamlutdar reported having given effect to the orders of the Assistant Magistrate.

Erapa bin Nursapa Gondkur (one of the brothers) appealed against the above measure to the Sudder Foujdaree Adawlut, who called for the Magistrate's report on an English and Murathee petition accompanying their Precept No. 1061, dated 19th November 1856. In executing the Precept, the Magistrate replied in a separate report (No. 2019, of 10th December last), that he had merely confirmed possession in favour of Dewapa agreeably to decisions passed in the case by successive Authorities since September 1850.

With reference to the above, the Magistrate was furnished (vide Sudder Adawlut's Precept No. 1196, dated 24th December 1856) with extract from the Court's proceedings, requiring him to state further "whether he ordered locks to be removed that had been on for several years (since 1850); also to certify the papers and proceedings."

Resolution of the Sudder Foujdaree Adawlut.—The petitioner not being present for the third time, his petition is struck off.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 17 of the Criminal Return of the Magistrate of Broach for January 1857. Tried by the Deputy Magistrate, NOWROJEE BYRAMJEE, on the 24th January 1857. Reviewed by the Magistrate, C. J. DAVIES, on the 4th February 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Mahomed Oomer, Bora, aged 32.

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Charge.—Appropriating to his own use and advantage public money, with the collection of which he, by virtue of his office of Oogratdar, was entrusted; in that he, in the month of April 1856 (exact date unknown), in the village of Rusoolpore, Talooka Broach, in his capacity of Oogratdar of that village, paid into the Government Treasury the sum of Rs. 164-0-1, on behalf of complainant Mahomed Salay, cultivator of that village, from whom he received the sum of Rs. 166-4-0, by representing the latter amount as the Government revenue dues owing by the complainant to Government, and thus appropriated to his own use and advantage the difference between the above-mentioned sums; rendering himself thereby amenable to the provisions of Regulation V. of 1833, Section I.

The prisoner pleads not guilty.

Nowrojee By-
ramjee, Deputy
Magistrate.

Finding and Sentence by the Deputy Magistrate.—The evidence of witnesses for the prosecution shows that the prisoner purchased from the complainant $4\frac{3}{4}$ 'bhars' of cotton, at the rate of Rs. 35 per bhar; that out of the whole amount, Rs. $166\frac{1}{4}$, he paid into the Government Treasury, first Rs. 75 and then Rs. 89-0-1, on behalf of the complainant, and that the remaining Rs. 2-3-11 he appropriated to his own use and advantage, by representing to the complainant that the revenue dues amounted precisely to the sum he owed to the complainant, and by rendering him an account thereof in a memorandum drawn up by the prisoner in his

own handwriting, and handed to the complainant in the presence of witnesses Nos. 4 and 5. This memorandum (No. 3), which the prisoner admits to be written by himself throughout, except the last item and the sum total, contains several items of debts due by the complainant to the Sirkar on account of lands cultivated by him both on his own account and on account of other people, the sum total of which amounts to Rs. 179-13-11, as also the sums purporting to have been paid by the prisoner and others to the Sirkar on the complainant's account, which amount to an equal sum, viz. Rs. 179-13-11. Now from the Tulatee's 'duftur,' as evidenced by the Tulatee's deposition (No. 8), it appears that the complainant owed only Rs. 178-13-11 to the Sirkar, so that the amount represented by the prisoner in the 'yadee' given by him to the complainant as due by him (the complainant) to the Sirkar is Rs. 1 in excess of the real sum he owed. This excess appears in one of the items in question, viz. that against the name of Vuley Suleman, whose 'khata' is represented in the yadee to be indebted to the Sirkar in the sum of Rs. 11-6-1, whereas the Tulatee's dufur shows the amount to be Rs. 10-6-1. On the other side, again, the prisoner has put down the sum of Rs. 7-9-10 as the amount of remission allowed to the complainant by the Sirkar, whereas the Tulatee says that the sum of Rs. 8-9-10 was the amount actually granted to the complainant by way of remission. Thus, by putting down on one side Rs. 1 in excess of what was really due by the complainant, and by putting down Rs. 1 less than what was actually due to the complainant, the prisoner defrauded the complainant of the Rs. 2 which in reality he owed to him, being the difference between Rs. 166-0-4, the amount of the purchased cotton, and Rs. 164-0-1, the amount he actually paid to the Sirkar on complainant's account,

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and which he falsely represented to have been paid by him to the Sircar.

The prisoner, in his 'defence, states that he purchased only $2\frac{1}{4}$ bhars and 2 'dhuries' of cotton from the complainant, the remaining $2\frac{1}{4}$ bhars and 3 dhuries having been bought by Suleman Mahomed (witness No. 12); that out of the value of that, Rs. $82\frac{1}{4}$, he paid Rs. $7\frac{1}{4}$ in cash to the complainant and Rs. 75 to the Sircar; that he did not pay the Rs. 89-0-1 which Tulatee alleges to have been paid by him as well as the Rs. 75; and that he did not write the last item in the memorandum, viz. Rs. 91-0-1, which he is accused of having falsely represented to have been paid by him to the Sircar, instead of Rs. 89-0-1, the actual amount he paid. The prisoner further asserts that that the alteration in the figures from 10 to 11 above alluded to, and that from 90 to 91 in the last item just adverted to, were not made by himself but by some one else, if not by the complainant. And as to the misrepresentation in respect to the amount of remission, he ascribed it to sheer inadvertence on his part.

Now with regard to the quantity of cotton purchased by him from the complainant, his own witnesses (Nos. 11 and 12) admit that the whole was bought by the prisoner and his partner (witness No. 11), and then it was divided between the two witnesses (Nos. 11 and 12); at all events, it was through the prisoner that witness No. 12 purchased the cotton from the complainant, and as regards the payment of Rs. $7\frac{1}{4}$, alleged by the prisoner and his partner (witness No. 11) to have been made by the latter, there is no proof adduced by them beyond their bare assertion for the Deputy Magistrate to rely upon. On the other hand, the Tulatee's evidence proves that both the items of Rs. 75 and Rs. 89-0-1 were paid by the prisoner to the Sircar on complainant's account. But the prisoner's allegation is further negated by the

evidence both of the Tulatee (witness No. 8) and of the Banya (witness No. 7), whose testimony as to the identity of the prisoner's handwriting throughout the memorandum is quite conclusive. From personal inspection it appears to the Deputy Magistrate that the last item is in the prisoner's handwriting, as well as the preceding ones.

These, however, are not material points, and they were dwelt upon merely to show the falsehood of the prisoner's assertions generally. The most important points are those which relate to the items of Rs. 11-6-1 and of Rs. 7-9-10. Now the former the prisoner explains away by imputing the alteration from the dot to the one in the figures to a person other than himself, which imputation, from his proved want of veracity, cannot for a moment be believed. But the latter, all his astute ingenuity avail him naught either to gainsay or evade. He is therefore driven to confess his mistake, as he calls it, but which in reality is a proof of his guilt.

The prisoner is, for the reasons above given, convicted of having appropriated to his own use the amounts represented by him to have been due to the Sircar and to have been paid into the Government Treasury, in excess of those actually paid by him. He is therefore sentenced to pay a fine of thirty (30) rupees, commutable to one month's imprisonment, and to suffer one (1) month's imprisonment in addition. The Magistrate is to be requested to dismiss the prisoner from the service of Government. (Regulation V. of 1833, Section I. and Regulation XVI. of 1827, Section II. Clause 3rd.)

Reviewed by the Magistrate, on Appeal.—From the evidence of the Tulatee (Ghela Umbaēdas), which as to these points is uncontradicted, it appears that complainant is responsible to Government for the dues on land on which the total assessment amounts to Rs. 178-13-11, i. e. that he is the superior holder of

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that land, part being cultivated by himself and part by inferior holders. It appears that the assessment on the particular portion cultivated by the inferior holder, Wuli Sale, amounts to Rs. 10-6-1. Further it appears that complainant was granted, on the whole holding, a remission of Rs. 8-9-10 on account of fallow land, so that the sum payable by him to the Oogratdar (prisoner) and Tulatee on account of Government was Rs. 178-13-11 minus Rs. 8-9-10, equal to Rs. 170-4-1.

Complainant's story is that he paid his assessment (as is not unusual) through the Oogratdar (prisoner), and that in settling his account with the Oogratdar (with whom he had some dealings in cotton) he was defrauded by him in two ways: first, that the prisoner represented his (complainant's) total assessment as Rs. 179-13-11, instead of Rs. 178-13-11, the particular item fraudulently increased being the assessment on Wuli Sale's land, which the prisoner represented to be Rs. 11-6-1, instead of Rs. 10-6-1, thus defrauding complainant of Rs. 1; secondly, that the prisoner represented the amount of remission granted as Rs. 7-9-10, instead of Rs. 8-9-10, allowing him only the former sum in the account, thus defrauding him of another rupee.

To prove this charge, complainant produces a memorandum alleged to have been written by the prisoner, and delivered to complainant, as a statement of their mutual dealings, and combining their private dealings as seller and buyer, and their public ones as rent-paying Ryot and rent-receiving Oogratdar. The complainant also calls witnesses to prove that he sold a certain amount of cotton to prisoner for a certain price, which money-price prisoner retained under the understanding that he was to regard it as received, in his official capacity of Oogratdar, in part payment of complainant's assessment.

The memorandum produced by complainant represents his assessment as Rs. 179-13-11, the assessment on the

land cultivated by Wuli Sale being represented as Rs. 11-6-1. The second part of this memorandum shows how this amount was discharged, as follows:—

Rs.	7	9	10	By remission on fallows.
„	6	4	0	By rice to Ji (Jugjiwan?).
„	75	0	0	By cotton to Bhana and Mahomed
				Oomer (prisoner).
„	88	13	10	
„	91	0	1	By cotton to Mahomed Oomer.
„	179	13	11	

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This memorandum, if proved to have been delivered by prisoner to complainant, would, when taken in connection with that part of the Tulatee's statement which is given above, suffice to convict the prisoner. On inspection, however, it appears that, in the memorandum, Wuli Sale's assessment originally stood Rs. 10-6-1, and has been *altered* to Rs. 11-6-1, and that the total assessment originally stood Rs. 178-13-11, and has been altered to Rs. 179-13-11. That in the second part of the document the last item Rs. 91-0-1 has been *altered* from Rs. 90-0-0; and that the total sum discharged, Rs. 179-13-11, was in the first instance written Rs. 178-13-10. Now, if these alterations were made after the prisoner gave the memorandum to complainant, the charge, as far as it rests on the allegation that prisoner misrepresented the amount of assessment payable by complainant, would fall to the ground; but in so far as it rests on the allegation that prisoner understated the amount of remission, it would hold good, inasmuch as it is clear that the amount of remission was originally written, as it now stands, Rs. 7-9-10, instead of Rs. 8-9-10, as it ought to have been.

Complainant asserts that the memorandum is now in the same state as when he received it from the prisoner; that is to say, that the alterations were made by the prisoner himself, and that the memorandum including the

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alterations was prisoner's statement of the account between them.

The prisoner makes different statements. On the 17th January he admitted that the *whole* of the memorandum, *as then shown to him*, was written by him, with the exception of the totals. Though particularly questioned as to the item of Rs. 11-6-1, he did not take any exception to the alteration therein (and which is so palpable that it could not have escaped his notice), but stated that the item (*i. e.* as it stood) had been copied by him from the Tulatee's accounts. However, on being further specially questioned as to the alterations, he gave the very dubious answer that he *had not* made any of them, but that if, on comparison, the figures, as altered, should be found to correspond with the Tulatee's accounts, in that case he *had* made them.

In his statement on 23rd January he changes his story. He asserts that not only did he not write the totals, but that he did not write the last item of Rs. 91-0-1 in the second part of the memorandum. From an inspection of the document it is impossible to say who made the *alterations*; but the Deputy Magistrate, whose native language is Guzerathee, is of opinion that the last item, "Rs. 91-0-1 by cotton to Mahomed Oomer," is in the same handwriting as the rest of the memorandum. I have some experience in Guzerathee handwriting, and quite agree with him, and think that not only was the last item written by the same person as the rest of the memorandum, but that the three totals were also clearly written by the same person. The alterations appear to have been made at a different time, as they are (with two exceptions, the two alterations made in the total of the second part of the memorandum 179-13-11 for 178-13-10) written with a paler ink. It is extremely difficult to judge as to who made the alterations, added mere tails, &c. to letters;

but yet (though on this point I do not give a confident opinion, as I have above as to the last item and totals) I think it probable that the same person wrote the memorandum and made the alterations. Thus all the ones, both the altered and unaltered ones, have a marked final curve; none of them resemble 1 or 1, they all resemble 1. Again, all the nines, altered and unaltered, resemble 2; none of them resemble 9. I place no stress on the opinion of Prema Koober, as his opinion may be supposed to be biassed by his being one of complainant's witnesses. Another circumstance makes me think that complainant did not add the last item. If he had wished to bring a false charge against complainant, he would have been careful to have had as few alterations in the document on which he founded it as possible. Now out of the six figures in which there are alterations, four belong to the last item and total following it, viz. 1 for 0, 9 for 8, and 11 for 10. Surely he would have been careful, and written 91-0-1 and 179-13-11 at once.

Prisoner, however, endeavours to prove in another way that his memorandum ceased at the first total, Rs. 88-13-10, by denying that he bought $4\frac{3}{4}$ bhars of cotton from complainant; that he bought only $2\frac{1}{2}$ bhars 2 dhuries for Rs. $82\frac{1}{4}$, of which he paid Rs. 75 towards complainant's assessment, giving complainant Rs. $7\frac{1}{4}$ cash; and that beyond this he paid nothing on complainant's behalf, and, as an implied consequence, had no necessity for entering any further payment in the memorandum. The remainder of the cotton, he states, was sold to Suleman Mahomed. To prove this, he calls Suleman Mahomed and his (prisoner's) partner Bhana Umbaeedas. The latter deposes that complainant was about to sell all the cotton to prisoner, but that, at Suleman's request, some of the cotton was transferred to him. Suleman supports the prisoner's story, and states that he bought the rest of the cotton

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for Rs. 98, of which he paid Rs. 8 cash to complainant, and the balance Rs. 90 to the Sircar* on complainant's account.

On the other hand, three witnesses depose that complainant sold the whole of the cotton for Rs. 166-4-0 to prisoner, and a fourth (Mitha Koober) deposes to the same from hearsay. Of the above three, one (Prema Koober) states that some of the cotton was put in Suleman's warehouse; but he prefaces this by saying that Suleman came to *weigh* the cotton.

I think that this conflict of testimony is completely decided by the evidence of the Tulatee (Ghela Umbacedas), who, speaking from his books (in which the names of the persons by whose hands payments are made, as well as of those on whose accounts, are always entered), states that the Government demands against complainant were discharged in three payments, as follows :

Rs. 6	4	0	By Jugjewun Purbhoodas.
75	0	0	By prisoner, complainant being with him.
89	0	1	By prisoner, complainant being with him.

170 4 1

which, with the remission of Rs. 8-9-10, made up the total of Rs. 178-13-11. This is not only conclusive as to the complainant having, up to the last, paid his assessment through prisoner, but also completely disproves Suleman's story of having paid Rs. 90, the last item paid being Rs. 89-0-1. In fact, that the prisoner was concerned in the last payment is admitted in the second paragraph of his petition of January 28th, in which he states that some of the cotton was sold to him and his partner and some to Suleman, and that he

* This may mean either the Tulatee, or the Oogratdar : if the latter, this evidence would be positively injurious to prisoner, as it would show that he had received as a Government Officer more than was due by prisoner, (?) and had retained the excess.

(prisoner) *caused* his partner to pay his share to the Sircar, and also *caused* (କରୀମ) Suleman to pay his share to the Sircar. Prisoner and Suleman may have divided the cotton between themselves, but there is nothing to show that, as far as complainant was concerned, the whole transaction was not confined to complainant and the prisoner.

The Tulatee states that complainant was present when prisoner made the two payments. I attach no importance to this; he is an illiterate man, and probably entirely trusted to prisoner's memorandum. Prisoner admits that he did so as to the payment of Rs. 75; he may have done so as to the second payment also.

I hold it, therefore, proved that complainant left in the hands of the prisoner, the Oogratdar, the person who makes the Government collections, Rs. 166-4-0 for the purpose of carrying it to his credit in his account with Government, and that the prisoner actually paid over only Rs. 164-0-1 to the Tulatee, appropriating the difference, Rs. 2-13-11, to his own use.

I think that it is doubtful, however, whether the whole of this sum can be regarded as "public money" appropriated by the prisoner. Undoubtedly his duty as Oogratdar was to have carried any excess payment to the credit of Government, leaving the person paying the excess to apply to the Mam-lutdar for a refund; or a less regular course, but an honest one, would have been to have at once returned the excess to the person paying it, if it had not already been credited in the books. He did neither. He paid only the exact demand to the Tulatee, and he did not return the excess to the complainant. The excess of Rs. 1, caused by misrepresenting the assessment on Wuli Sale's land, and the Rs. 0-3-11 excess over the fraudulent assessment, were undoubtedly sums out of which prisoner cheated complainant, but they were not, strictly

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speaking, "public money," and Regulation V. of 1833 Section I. would not apply to an appropriation of them.

I put them, therefore, out of consideration.' "

Not so the other rupee excess, caused by the prisoner misrepresenting the amount of remission. The part of the memorandum containing this misrepresentation is free from alteration, and prisoner admits having made it, and imputes it to a mere mistake. This excuse I feel by no means disposed to believe. Money remitted should either not be collected, or, if it has already been collected, it should be returned. This rupee had been collected, and it was therefore public money in the prisoner's hand, which he was bound to apply to a specific purpose, *i. e.* to return it to complainant as remission. Instead of doing this, he appropriated it to his own use, and thereby rendered himself amenable to the provisions of Regulation V. of 1833, Section V.

It may be urged that the prisoner did not actually receive this rupee in cash; that he had dealings with complainant, and was merely bound to allow this sum to complainant in settling accounts; that his not doing this was a mere private fraud. The answer to this is that his engaging in any trading transactions was a criminal offence, and that he cannot plead his own wrongful act for his own benefit, nor had he any right to mix up his official transactions as Oogratdar with his private ones as a trader. He had to give complainant a rupee of public money, and did not do so.

The prisoner urges two pleas why the complainant should be disbelieved, independently of any impression which the evidence may create, *viz.* 1st, enmity against him in the village; and 2nd, the length of time which elapsed before the complaint was made.

As to the plea of enmity, it is one made in nearly every case—difficult to prove, and equally difficult to disprove. I am unable to attach any weight to it.

As to the delay in making the complaint, the wrongful act was committed in April and the petition of complainant is dated December 29th. The complainant explains that he was absent at the time of the 'roojoowat', or final closing of the accounts, and therefore did not discover the fraud until afterwards. I wish that the Deputy Magistrate had questioned a little more closely as to his delay, and as to how he finally discovered the fraud. Villagers, however, so constantly delay for months in complaining of matters of this sort, that this delay, though not satisfactorily explained, is not sufficient to destroy the impression produced on my mind by the evidence.*

I confirm the conviction and sentence.

I observe that prisoner's partner in trade and the Tulatee are both Vanias, and that their fathers' names are the same. The Deputy Magistrate is requested to report whether they are related to each other.

Report by the Deputy Magistrate.—With respect to the point as to whether prisoner's partner and the Tulatee are related to each other or not, the Deputy Magistrate, on a reference to the Guzerathee depositions in which their names and castes are inserted in the beginning, begs to state that the prisoner's partner is a Vania of the 'Dussa Porewad' denomination, and the latter of the 'Dussa Lad' denomination, which indicates that they are of quite different Nyats, and therefore kinship between them is impossible.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frère.—The case is not free from suspicion; but the preponderance of evidence is against the prisoner, and he cannot get over the item of Rs. 7-9-10; and I would therefore reject his petition.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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W. E. Frere,
Puisne Judge.

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DHARWAR.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 21 of the Criminal Return of the Magistrate of Dharwar for December 1856. Tried by the First Assistant Magistrate, S. ST. J. GORDON, on the 16th December 1856. Confirmed by the Magistrate, T. OGILVY, on the 9th January 1857. Proceedings certified, on the requisition of the Sudder Foujdaree Adawlut.]

Wilfully Injuring
Public Grazing
Land.

Prisoner.—Adoya bin Seddapa, caste Punshamsalee, aged 50.

Charge.—Wilfully injuring public grazing land (Regulation XIV. of 1827, Section XLII. Clause 3rd); in that, on or about the 6th October 1856,* Monday, (Ashwin Wud 7th, 1778,) in the village of Timapoor, Talooka Hangul, Zillah Dharwar, he (the prisoner) did, without authority, prepare for cultivation and sow an area of 4 acres 29 chains, a portion of Revenue Survey No. 4, which is set apart as free grazing ground for the cattle of the village, by which means the grazing land has suffered considerable injury, which it will take a long time to repair.

The prisoner pleads not guilty.

S. St. J. Gordon,
First Assistant
Magistrate.

Finding and Sentence by the Assistant Magistrate.—The land in evidence is situate in a portion of the village of Timapoor, adjoining the frontier of the Canara Zillah, and was formerly the subject of a boundary dispute which must be held to have been definitively settled at the introduction of the Survey and the fixing of the boundaries, now many years since. Notwithstanding repeated warnings, the prisoner has insisted for three years in cultivating this land, which is set apart for the free grazing of the cattle of the Ryots of Timapoor. He was, moreover, specially warned this year by the Mam-lutdar in person. The land is within the boundary marks, and clearly belongs to Timapoor. It would not have been a defence to prove, as the prisoner alleges, that he

cultivated by order of his village Authorities, for they had no right to grant permission, but it would partly have shifted the blame from his own to their shoulders; but he has entirely failed to do this, and for his own obstinacy and contumacy he must suffer in person. It is a very aggravated case, and it is necessary to make the prisoner an example, to deter others from endeavouring to revive these old boundary disputes, so long since disposed of. Prisoner is found guilty of destroying wilfully the public grazing land, as set forth in the charge, and, under Regulation XIV. of 1827, Section XLII. Clause 3rd, sentenced to one (1) month's imprisonment with hard labour, and fifteen (15) rupees' fine, or, in default, another month's imprisonment, also with labour.

Review by the Magistrate.—On appeal the Magistrate sees no reason to disturb his Assistant's decision.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for papers and proceedings.]

Return by the Magistrate to the Precept.—[Certifying the papers and proceedings.]

In the Court of Sudder Foujdaree Adawlut.—The prisoner in this case did not appeal, and his sentence has expired, so that the Court can give no redress unless he should have paid the fine. They do not think the Clause quoted applicable to this case, and request the Magistrate to see that his Assistants do not again strain the law as in this case, particularly against a person who, as Shree-newas (witness No. 6) says, is rather mad.

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Wilfully Injuring Public Grazing Land.

T. Ogilvy, Magistrate.

W. E. Frere,
W. H. Harrison,
Puisne Judges.

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COLABA.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Petition of Raghoo Trimbuk and four others to the Sudder Foujdaree Adawlut. Referred to the Joint Magistrate of Colaba, L. REID, on the 25th March 1857, for Report.]

Security for
Good Behaviour.

Petition of Raghoo Trimbuk and four others to the Sudder Foujdaree Adawlut.—[Praying that the sentences passed against them might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—[Calling for report.]

L. Reid, Joint
Magistrate.

Return by the Joint Magistrate.—In compliance with the instructions contained in the within Precept, the Joint Magistrate has the honour to make the following report on the petition (herewith returned) of the prisoners Raghoo Trimbuk, Luxumon bin Baboo, Poshia bin Janoo, Mahadia bin Trimbuk, and Saya bin Nagoo, Kolee.

On the night of the 25th January 1857, whilst the Village Police of Rewadunda were going their rounds, they stopped at the houses of Raghoo and Poshia, who, as well as the rest of the petitioners, are of notorious bad character, to take their 'hajree,' when they were found absent; and it would appear, from the inquiries then made, that they had each left home about 8 o'clock, but where and on what business was not known. The antecedents of both parties (see paragraph 4 given below) having shown that very little, if any, dependence could be placed on them, the Police very properly set a watch on their houses to ascertain when they returned home, which they did about dawn, in the company of a third person, the second petitioner (Luxumon bin Baboo); and as they had in their possession a small crowbar suited for house-breaking purposes, together with a club and stick, they were all three apprehended.

Inquiries were instituted, and it came to light, from

the statements of these three prisoners, that they had, on the night in question, gone out with the petitioner Saya, with the intention of committing a robbery in the house of a Brahmin named Pete, at the village of Akshee, to which they had been invited by the petitioner Mahadia, who lives there and who promised to join them. The opportunity, however, did not prove favourable, and the design was postponed for a while. The night was pitch dark, and the petitioners further, for the purpose of preventing suspicion, took advantage of there being a 'tumashia' on the night in question at the temple of Rameshwur in the adjoining village of Cheol, three of them admitting that they remained there a short time.

The petitioners' former convictions are given below:—

Raghoo Trimbuk.—1. In case No. 18 of 1842, of robbery, and sentenced to six months' imprisonment with hard labour.

2. In case No. 15 of 1846, of robbery, and sentenced to one year's imprisonment with hard labour.

3. In cases Nos. 52 and 53 of 1847, of robbery, and sentenced to three months' imprisonment with hard labour, and to be flogged.

4. In case No. 25 of 1850, of rape, and sentenced to five years' imprisonment with hard labour.

Luxumon bin Baboo.—1. In cases Nos. 6 and 7 of 1848, of gang robbery, and sentenced to six years' imprisonment with hard labour.

Poshia bin Janoo.—1. In case No. 6 of 1841, of gang robbery, and sentenced to three years' imprisonment with hard labour.

2. In case No. 8 of 1848, of gang robbery, and sentenced to four years' imprisonment with hard labour.

Mahadia bin Trimbuk.—1. In case No. 25 of 1846, of robbery, and sentenced to three years' imprisonment with hard labour.

Saya bin Nagoo Kolee.—1. In case No. 206, of

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attempt to commit theft, and sentenced to twenty days' imprisonment by the District Police Officer of Rewadunda.

Under the above circumstances, the District Police Officer forwarded them for the adoption of precautionary measures, and the Joint Magistrate concurring in his opinion, petitioners were called upon to furnish security for good conduct as follows:—

Petitioners Raghoo, Luxumon, Poshia, and Mahadia for two years, in the sum of Rs. 300 each.

Petitioner Saya for one year, in the sum of Rs. 150.

On failure to furnish satisfactory securities, the petitioners were committed to jail.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

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POONA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Notice issued by the First Assistant Magistrate in Charge, D. C. R. LEIGHTON, on the 18th April 1857, and referred by him to the Sudder Foujdaree Adawlut.]

Notice by a
Magistrate.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve from any injury the road newly made across the ford below the Jamsetjee Bund at the village of Yerowdry, Talooka Haveilee, all persons are hereby prohibited from stopping their carts on and blocking up the said road, as also from putting stones under the wheels of their carts, and knocking down the direction posts across the said ford. Disobedience of this Injunction will be punished according to law.

Letter from the First Assistant Magistrate in Charge to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward, for submission to the Court, and for registry, a copy and translation of a Notice which I have issued, under Section XIX. of Regulation

XII. of 1827, at the village of Yerowdry, Talooka Haveilee.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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POONA.

Notice by
Magistrate.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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TANNA.

[Notice issued by the First Assistant Magistrate of Tanna, H. B. BOSWELL, on the 16th April 1857, and referred by him to the Sudder Foujdaree Adawlut.]

Notice, under Section XIX. Regulation XII. of 1827, is hereby given, that in consequence of the number of mad dogs about, it has been resolved to destroy all dogs, wherever found without their owners; and every owner of a dog is hereby ordered to cause his dog or dogs to be muzzled, or else kept always tied up.

Notice by
Magistrate.

The Police Patel in every village will be held responsible for destroying every stray dog found without an owner, or for giving information of its existence, or of anybody's acting contrary to the above, to the nearest Police Amuldar.

In case of a dog going mad, all are hereby directed to give instant information thereof to the Police, who have orders to give every assistance in their power to the villagers in destroying it, as well as all dogs suspected of having been bitten by it.

All persons acting contrary to the terms of this Notice will be punished according to the Regulations.

Letter from the First Assistant Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to enclose, for submission to the Judges, a copy and translation of a Notice issued by me in this Zillah, under Section XIX. Regulation XII. of 1827.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

AHMEDNUGGUR. [Case No. 3 of the Criminal Return of the Magistrate of Ahmednug-
gur for February 1857. Tried by the Hoozoor Deputy Magistrate,
RAMCHUNDER AMRIT DUGLE, on the 3rd February 1857. Con-
firmed by the Magistrate, C. E. F. TYTLER, on the 7th February
1857. Proceedings certified to the Sudder Foujdaree Adawlut,
on the petition of the prisoner, Luximon wulud Gungaram.]

Adultery.

Prisoners.—No. 1, Vitee Murd Ramkrishna, Jain,
aged 25.

2, Luximon wulud Gungaram, Zo-
horee, aged 40.

Charge.—Adultery (Regulation XIV. of 1827, Section
I. Clause 1st, Para. 7th, and Section II. of Act II.
of 1845); in having, from November 1855, (correspond-
ing with Ashwin Mas, Shuké 1777,) at Nuggur,
Zillah Ahmednuggur, cohabited together as husband
and wife, the husband of prisoner No. 1 being alive.

Prisoners plead not guilty.

Ramchunder
Amrit Duglé,
Hoozoor Deputy
Magistrate.

*Finding and Sentence by the Hoozoor Deputy Magis-
trate.*—Prisoner No. 1 has made a full and unreserved
confession of her guilt; she endeavours to show that her
criminal intercourse with prisoner No. 2 was with the
consent of her husband, which no potent husband would
give under any circumstances. Prisoner No. 2 attempts to
show that there has been no criminal intercourse between
him and prisoner No. 1 since she was married with
complainant, whereas he acknowledges that she remain-
ed with him day and night, and that he provided her
with food and clothes. He is, according to his own
showing, a widower, and under these circumstances it
cannot be imagined for a moment that the prisoners
would be so steady as to preserve themselves in purity.
Both prisoners were apprehended by the Police in the
house of prisoner No. 2 at midnight.

Conviction and Sentence.—On the above grounds,

both prisoners are convicted of the offence specified in the charge; and, under Section I. of Act II. of 1845, in connection with Section II. of Act II. of 1839, sentenced each (subject to the confirmation of the Magistrate) to suffer five and a half ($5\frac{1}{2}$) months' imprisonment with hard labour, and, at the expiration of that period, to pay a fine, prisoner No. 1 of thirty (30) rupees, and prisoner No. 2 of fifty (50) rupees, commutable to fifteen (15) days' additional imprisonment with hard labour.

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AHMEDNUGGUR.
Adultery.

The Session Judge will be requested to forward these prisoners to this Office after they have undergone the punishment awarded them, for the purpose of adopting precautionary measures against them.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—It looks very much as if the husband connived at his wife's misconduct. He has another wife, and the question has not been put to any Law Officer to ascertain whether bigamy is allowed among the Jains, and if the woman is punishable or not.

W. E. Frere,
Puisne Judge.

Minute by Mr. Harrison.—It is doubtful whether the prisoner did commit adultery at all with the woman Vitee, who seems to have been the concubine rather than the wife of the complainant. The sentence must be annulled, and the order for security was not called for in such a case.

W. H. Harrison,
Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, as is also the order for security, as security is not called for in such a case.

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POONA.

Present, { WILLIAM EDWARD FREERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 32 of the Calendar of the Poona Sessions Court for 1854. Committed by the Acting Second Assistant Magistrate, R. H. PINHEY. Tried by the Session Judge, P. W. LEGEY. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Returning War-
rant on the Death
of the Convict.

Prisoner.—Muheeputee bin Khundojee, Koonbee, aged 60.

[See pages 393 to 403, Vol. II. of 1854, for former proceedings in this Case.]

Return by the Acting Session Judge, returning the Warrant of the Prisoner.—The withinnamed prisoner having died on the 12th May 1856, this warrant is returned to the Sudder Foujdaree Adawlut.

This return should have been made on the day following the death of the convict, but the prisoner's death not having been duly reported, it has been delayed.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Session Judge.—The Session Judge is to be requested to submit any further explanation there may be forthcoming of this; why the report was not made, and what notice he took of the omission.

Return by the Acting Session Judge.—Agreeably with the instructions contained in the extract from the Court's proceedings received with this Precept, the Acting Session Judge has the honour to report, that owing to the ignorance of one of the Karkoons belonging to the Nazir's Department, the return on the warrant was not made in due time. The Karkoon having been newly appointed to the work, was not aware that it was necessary to make such reports, and hence the omission.

Under these circumstances, the Karkoon was informed that if he committed any such error for the future he would be dismissed, and the Nazir directed to attend to such matters personally.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—The Nazir was the person to blame, and it is he who should be dismissed, if any person is to be so severely punished ; not a new Karkoon, ignorant of the necessity of making such a report, and who ought to have been taught his work by the Nazir.

Resolution of the Sudder Foujdaree Adawlut.—The Court do not consider that the Karkoon was the person chiefly to blame in this matter. They are of opinion that the Nazir is the responsible party, as it was his duty to see that the Karkoon performed his work properly ; and they would inform the Acting Session Judge that it would have been more satisfactory had the expression of his displeasure been made to the Nazir rather than to his subordinate.

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POONA.

• Returning Warrant on the Death of the Convict.

W. E. Frere,
Puisne Judge.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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SURAT.

[Case No. 13 of the Criminal Return of the Magistrate of Surat for January 1857. Tried by the District Deputy Magistrate, DAJEEBHAAE SOONDERLAL, on the 19th January 1857. Referred to the Magistrate, G. INVERARITY, for Report, on the petition of the prisoner.]

Prisoner.—Jogee Bhoola, Kolee, aged 28.

Misconduct as a
Police Officer.

Charge.—Misconduct as a Police Officer. (Regulation XII. of 1827, Section VIII. Clause 3rd.)

Conviction and Sentence by the District Deputy Magistrate, confirmed by the Magistrate.—Convicted, and sentenced to pay a fine of fifty (50) rupees, or to suffer two (2) months' imprisonment without labour. (Regulation XII. of 1827, Section VIII. Clause 1st.)

Dajeebhaee Soon-
derlal, District
Deputy Ma-
gistrate.
G., Inverarity,
Magistrate.

Petition of Jogee Bhoola to the Sudder Foujdaree Adawlut.—[Praying that an order of the Deputy Magistrate of Surat, imposing upon him a fine of Rs. 50,

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SURAT.

Misconduct as a
Police Officer.

and dismissing him from the service, on a charge of neglect of duty as a Police Patel, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report upon the petition; also why the petitioner was not furnished with a copy of the Deputy Magistrate's order fining him; and why, when, on the 7th March, he petitioned the Magistrate for a copy of the order, the Magistrate gave him an answer beside the question.

Return by the Magistrate.—In returning this Precept duly executed, the Magistrate of Surat has the honour to report, for the information of the Judges of the Sudder Foujdaree Adawlut, that petitioner was fined, after full judicial inquiry by the District Deputy Magistrate (subsequently confirmed by the Magistrate), in the sum of Rs. 50, under Regulation XII. of 1827, Section VIII., for neglect of duty, in having allowed a corpse, found within the limits of his village under suspicious circumstances, to be buried, without reporting the circumstance immediately to higher Authority, or having measures taken for the usual inquest being held. Petitioner has further, on the same account, been dismissed from office, under the sanction of Government, communicated through the Commissioner of Police.

Petitioner did not apply personally for copies of the papers in his case, but through the Post Office; and as it is not customary for copies to be prepared by the Magistrate's establishment and sent to applicants, they were not supplied to him. No objection would have been offered if he had sent his Vakeel or Agent to copy what he wanted. The Magistrate further told him that copies were unnecessary, as the case would be fully examined on appeal, which seemed to the Magistrate very good advice, as the petitioner was thereby saved unnecessary expense in stamped papers.

Resolution of the Sudder Foujdaree Adawlut.—The

petitioner not having brought a copy of the order appealed from, nor even applied for it, no order can be given on his petition.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

1857
April 29.

[Petition from Oomajee wulud Jayram to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Sholapore, A. W. GOLDFINCH, on the 11th February 1857, for report.]

SHOLAPORE.

Petition from Oomajee wulud Jayram to the Sudder Foujdaree Adawlut.—[Praying that an order, requiring him to furnish security for good conduct, without any cause, might be annulled.]

Notoriously Bad
Character.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Magistrate.—In reply to the above, the Magistrate has the honour to report that the petitioner is a man of notoriously bad character. He was fined in the year 1852 for assault, and imprisoned for fifteen days for the same offence in 1853. In the month of June 1855 he appeared before the Hoozoor Deputy Magistrate on a charge of robbery; the proof, however, on this occasion, was not sufficient to convict him, and the Deputy Magistrate decided that his character was such that he should not be turned loose on society without some precautionary measures for his good conduct being taken, and required him to find two securities for good conduct for a period of two years, in a penalty of Rs. 150, or three months' imprisonment each. The petitioner appealed to the Magistrate in March 1856; the Magistrate perused the proceedings, and made a reference to the Deputy Magistrate, to obtain the depositions of the Village Authorities as to petitioner's character, and they having agreed in describing him to be a notorious evil-doer, the Magistrate did not consider it necessary to

A. W. Goldfinch,
Magistrate.

interfere with the Deputy Magistrate's decision. The petition is herewith returned.

Resolution of the Sudder Foujdaree Adawlut.—The Court will not interfere, and reject the petition.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDNUGGUR. [Petition from Dhurma wulud Luximon to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmednuggur, C. E. F. TYTLER, on the 24th December 1856, for Report.]

Disputed Possession of Property.
C. E. F. Tytler, Magistrate.

Letter from the Magistrate of Ahmednuggur to the Registrar of the Sudder Foujdaree Adawlut.—I have to apologise for troubling the Judges with the accompanying case; but it will be seen that the Session Judge and Magistrate are at issue regarding the ownership of property amounting to about Rs. 2,000. I am therefore reluctantly obliged to solicit the instructions of the Sudder Judges on the matter.

The case originated during the incumbency of my predecessor; but its difficulties, and the conflicting opinions regarding the ownership of the stolen property, have deferred the settlement of that question up to the present time.

With the Deputy Magistrate who tried the case, I am of opinion that Godhu Nawee has the best claim to the property in question. On the other hand, however, the Session Judge, Superintendent of Police, and First Assistant Magistrate hold that it should be brought to the credit of Government.

I agree with these gentlemen in thinking that Godhu Nawee's claim is not a good one, but I cannot divest my mind of the impression that the claim of Government to the property is worse still.

The property must have an owner, and it is a telling

fact that no one but Godhu Nawee has come forward to lay any claim to it.

P.S.—I trust the Judges will not draw unfavourable inferences from the delay in this case. All Police and Magisterial business, as the Judges have themselves twice remarked of late, are disposed of in this Zillah with the utmost despatch. The delay here is solely due to the grave doubts attending Godhu's claim, and the hope that time and prolonged inquiry might dispel those doubts, or bring other and less questionable claimants to light.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Session Judge of Ahmednuggur.—The Judges of the Sudder Foujdaree Adawlut desire me to request you will have the goodness to favour them with your English record in the case of Dhurma wulud Luximon, in which you and the Magistrate are at issue regarding the ownership of certain property in jewels and gold and silver ornaments.

Extract from the Proceedings of the Sessions Court held before J. W. Woodcock, Session Judge of the Zillah of Ahmednuggur, in Case No. 58 of the General Calendar for 1855.—Received a case in which prisoner Dhurma wulud Luximon, barber, has been committed, on the 31st ultimo, by the Deputy Magistrate, Mr. Dadoba Pandoorung, on a charge of "robbery by day or night (unknown), without force"; and 2ndly, on a charge of "receiving stolen property."

* * * * *

Finding by the Session Judge in the Case.—From the evidence recorded in the case, I do not consider there is evidence to prove that prisoner Dhurma robbed complainant Godhu, or that the articles found in Dhurma's house were received by him, knowing them to be stolen; or, indeed, that Dhurma received them at all. As the Court further considers that many of the articles are not capable of recognition, from their being broken up and

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bruised, and that there is not reliable evidence that the ply of a chain and the 'peytee' (part of a wristlet) belong to complainant Godhu, the Court is of opinion that there is not evidence to sustain either the charge of robbery, or of receiving stolen property, knowing or having evident grounds for suspecting it to be such. The prisoner is therefore acquitted; but, as it is very clear that the property found in the prisoner's house does not belong to him, and there is every reason to believe that he must have stolen it, or obtained it by some unfair means, he is handed over to the Magistrate, for such precautionary measures as he may think proper to adopt regarding him, and the property will hereafter be sent to the Magistrate, to be disposed of as he may think fit.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate of Ahmednuggur.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your letter No. 329, dated 22nd September last, requesting instructions in a case wherein you and the Session Judge are at issue regarding the ownership of certain property in jewels and gold and silver ornaments.

In reply, I am desired to inform you, that the Court are of opinion that the property, in the absence of any one proving a better title to it, belongs of course to the person in whose possession it was found. Godhu not having proved his title, and Dhurma having been acquitted, the property ought at once to have been restored to the prisoner, and the Judges advise that it, be so without further delay.

Letter from the Magistrate of Ahmednuggur to the Registrar of the Sudder Foujdaree Adawlut.—I much regret that the peculiarities of the case again oblige me to trouble the Judges of the Sudder on the subject of your letter No. 2441, of the 7th instant. The 2nd paragraph thereof is as follows.

"In reply, I am desired to inform you, that the Court are of opinion that the property, in the absence of any one proving a better title to it, belongs of course to the person in whose possession it was found. Godhu not having proved his title, and Dhurma having been acquitted, the property ought at once to have been restored to the prisoner, and the Judges would advise that it be so without further delay."

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I am aware that, under ordinary circumstances, the above course should be followed ; but I should be wanting in duty did I not first respectfully indicate to the Judges facts in the present case which deter me from adopting that course.

The prisoner (Dhurma) did not at first claim the property ; he repeatedly stated that it belonged to his uncle Godhu. His words were, "The ornaments found in my house do not belong to me." This statement he consistently adhered to, and it is obviously true, prisoner being a person possessed of no property whatever.

Prisoner has unfortunately escaped punishment, but it amounts to certainty that he stole the property, altering and defacing most of it. Two stones were found in his house which had been used in pounding the gold ornaments ; gold still adheres to them.

It is true that prisoner was long afterwards instructed to say that the property was his ; but this was only after the Police had doubted Godhu's title to it, and had issued a proclamation, calling on claimants to appear and identify any portion of the property which they might have lost.

This after-statement of prisoner is so obviously and notoriously false, that I must respectfully solicit the Judges to give it no weight.

The sole question is whether the property should be restored to Godhu, as the Magistrate thinks, or be brought to the account of Government, according to the

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view of the Superintendent of Police. In the accompanying proceedings, to which I have given the closest attention, my opinion is that Government have no just claim to the property, and that it should be made over to Godhu. To this proceeding I respectfully solicit the sanction of the Judges.

Reply from the Registrar of the Sudder Foujdaree Adawlut to the Magistrate of Ahmednuggur.—I have the honour, by direction of the Judges of the Sudder Foujdaree Adawlut, to acknowledge the receipt of your letter No. 427, dated 27th ultimo, relative to the disposal of the property in the case of Dhurma wulud Luximon; and in reply to inform you, that you are already in possession of the only opinion the Judges can give upon the case as now before them; and they can give no orders, nor sanction, on the subject.

They, however, desire me to add, that you can adopt their views, or act in any other way, and make the property over to any other person, if you think such person has the better right, and feel that you can justify your proceeding should it hereafter be questioned.

Petition from Dhurma wulud Luximon.—[Praying that an order of the Magistrate, depriving him of possession of property, might be cancelled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report on the petition, and to state why he did not give petitioner a written order upon his petition.

Return by the Magistrate to the Precept.—In reply to this Precept, the Magistrate begs respectfully to refer the Judges to the correspondence, which fully sets forth the circumstances of the case.

Petitioner has no claim to the property, and the written order of the Magistrate to this effect was given to petitioner.

The petition is herewith returned.

Further Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be informed that this is no return to the Court's Precept. The correspondence to which he refers ended with the Court's telling him that he was in possession of their opinion on the subject, which was that he should give over the property at once to petitioner. This he has not done, and he is therefore to be requested to state his reasons for not doing so, and to inform the Court what he has done with the property.

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Return by the Magistrate of Ahmednuggur to the Precept of the Sudder Foujdaree Adawlut.—The Magistrate has the honour to report, that he has been unable to move in this matter in consequence of petitioner's absence in Bombay.

Immediately on the receipt of the Court's Precept, with a view to its enforcement, petitioner was summoned by the Magistrate, and those who appeared on petitioner's behalf promised that he should shortly appear in person. He has not yet done so; and further orders have been issued for his attendance.

On his appearance, the instructions of the Court will be enforced, and the result reported in detail.

Further Return by the Magistrate of Ahmednuggur.—Petitioner has this day appeared before the Magistrate.

Godhu, the other claimant of the property, is also present, and the stolen property is also in Court.

Read and recorded the former proceedings in this case, including the instructions of the Sudder Foujdaree Adawlut, part of which is as follows:—

“ They, however, desire me to add, that you can adopt their views, or act in any other way, and make the property over to any other person, if you think such person has the better right, and feel that you can justify your proceeding should it hereafter be questioned.”

Availing himself of the permission herein accorded,

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the Magistrate, after maturely weighing all the circumstances of this protracted and intricate case, considers it most expedient to make the property over to both the claimants jointly. They are relations, and agreed to settle their claims amicably; Dhurma more especially seeming well satisfied with the adjustment and termination of the matter.

Resolution of the Sudder Foujdaree Adawlut.—To be recorded.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT. OF BOMBAY,

IN MAY 1857.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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May 6.

COLABA.

[Case of Sumbaya bin Rama Kathkuree. Referred by the Joint Magistrate of Colaba to the Sudder Foujdaree Adawlut, on the 18th March 1857.]

Letter from the Joint Magistrate of Colaba to the Registrar of the Sudder Foujdaree Adawlut.—In conformity to Clause 1st, Section XXVII. Regulation XII. of 1827, I have the honour to request the sanction of the Judges of the Sudder Foujdaree Adawlut to the further detention for one year, from the 28th instant, of Sumbaya bin Rama Kathkuree, whose case is reported at page 495 of the Selected Cases for April 1856.

Failure to Furnish Security for Good Conduct.

L. Reid, Joint Magistrate.

The prisoner is unable to furnish the security demanded, and there are no circumstances in his case, upon consideration, of which any remission of the sentence could be recommended.

Precept issued to the Joint Magistrate of Colaba by the Sudder Foujdaree Adawlut.—The prisoner has been tried for the murder of his wife, and acquitted; he has, since that, been two years in gaol for want of security. The Joint Magistrate says he is the terror of the neighbourhood, which was considered to account for his being charged with the murder. The Court do not think it

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COLABA.

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nish Security for
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would be right to keep him a third year in gaol, unless the Joint Magistrate can show some further reasons for the detention.

Return by the Joint Magistrate of Colaba to the Precept issued by the Sudder Foujdaree Adawlut.—In returning this Precept within the specified time, the Joint Magistrate has the honour to state, with reference to the extract from the Court's proceedings, that he can show no further reason for the prisoner's detention than that he is a notorious object of public distrust, having neither settled home nor calling of any kind. He lives just as it pleases him, either in caves or in the hollow of trees, sometimes making his bed among the branches. Before his committal he used to obtain his livelihood chiefly by stopping the women and children as they came with their baskets of grain from the fields or from market, and forcibly taking them from them. If the villagers did their duty, there would be less apprehension in letting him loose, but they are too cowed to interfere with him; and as there is no chance of his settling down to any honest livelihood, the Joint Magistrate does not think there would be any hardship in making him undergo the full sentence. On hearing of his being received from the Session Judge, a number of villagers appeared to protest against his release, and were only satisfied on being told another year of his sentence was still unexpired.

In the Court of Sudder Foujdaree Adawlut.—The Joint Magistrate's reason for requiring this person's further detention is, because the villagers (including, of course, the Police) do not do their duty. It was his business to see that the villagers did their duty, and not to apply to the Court to exercise their powers in order that the villagers and Police may with greater ease and comfort be negligent: the Joint Magistrate's request, therefore, cannot be complied with, and the prisoner must be released.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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SURAT.

[Case No. 14 of the Calendar of the Surat Sessions Court for 1857.

Committed by the Acting Second Assistant Magistrate, J. MORIARTY, on the 28th March 1857. Tried by the Acting Session Judge, A. K. FORBES, on the 3rd April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Kaleeo Dhuneeo, Dooblo, aged 16.

Wilful Perjury.

Charge.—Wilful perjury; in having, on the 6th August 1856, (or Sumvut 1912, Shrawun Shood 5th,) while giving evidence on solemn affirmation before the Session Judge of Surat, in a case in which prisoners Jeevunjee Ookerjee, Jethio Dhootro, and Bhungro Deyahio were on trial under a charge of having wilfully murdered a woman named Guloo, made a deposition containing the following false statement, with a view of procuring the acquittal of the abovementioned prisoners:—

“I did not say before the Joint Police Amuldar that the women were saying that Parsee Jeevunjee, and Bhungro, and Jethio had murdered the deceased Guloo.”

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—Prisoner stated before the Sessions Court that Lukhee did not mention to him the name of any one as having murdered Guloo. Before the Police he said that Lukhee and Rutree told him that Jeevunjee, Bhungro, and Jethio had killed Guloo.

A. K. Forbes,
 Acting Session
 Judge.

This case differs much from the preceding in the amount of criminality. Prisoner's evidence upon the point, whether the women told him or not that the three persons mentioned above had murdered Guloo, was not likely to be of any value to the prosecution, even if it had been adhered to before the Sessions Court. Nevertheless the prisoner did make a false statement be-

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SURAT.

Wilful Perjury.

fore the Sessions Court, and that doubtless with the intention of benefiting the prisoners then on trial for murder, by withholding evidence against them.

Prisoner is convicted of wilful perjury, and sentenced, under Regulation XIV. of 1827, Section XVI. Clause 2nd; and Act V. of 1840, to be imprisoned with hard labour for six (6) months; this sentence being subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

W. E. Frere,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Frere.—This prisoner has not told the truth, any more than the others; but what Lukhee and Rutnee told him was not evidence, as they were not on their trial, and I do not think he can be convicted of perjury because he said something which was not evidence, though it was untrue.

The Regulations do not require that the matter sworn to should be material to the issue, but it certainly was never intended that a man should be punished for perjury when he swears falsely in answer to a question that ought never to have been put to him.

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—I am of opinion that, as what Lukhee and Rutnee told prisoner was not evidence, the prisoner's conviction is unsound, and that he must be acquitted.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is acquitted, and to be discharged.

Present, { WILLIAM EDWARD FRERÉ, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

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 May 13.

DHARWAR.

[Reference from the Magistrate of Dharwar, T. OGILVY, of the 20th April 1857, to the Sudder Foujdaree Adawlut, recommending the further detention in Jail of the prisoner Govind bin Chickupa for one year, in default of furnishing security.]

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—With reference to the Circular Order of the Sudder Foujdaree Adawlut No. 312, dated the 17th December 1844, I have the honour to request that you will do me the favour to obtain authority from the Judges for the further detention in confinement for one year, from the 21st August 1857, of the prisoner Govind bin Chickupa, in default of his finding satisfactory security for his future good conduct.

Precautionary
 Measures.

The Assistant Magistrate, Dr. Forbes, describes the prisoner's character in these words:—"The prisoner Govind bin Chickupa, age 26, caste Koomptee, occupation none, inhabitant of Dharwar, is brought before the Assistant Magistrate on two charges,—one of house-breaking and robbery, involving property to the amount of Rs. 250, and the other a petty theft. The Assistant Magistrate, having gone carefully over the evidence in both cases, finds that, though it affords ample reasons for strongly suspecting the prisoner, it is not sufficiently clear to sustain a conviction.

"The previous history and notoriously bad character of the prisoner render it, in the opinion of the Assistant Magistrate, absolutely necessary that measures be adopted for securing his good conduct for a lengthened period. This is the third occasion on which measures of a similar nature have been resorted to with regard to him, and in every instance he has, immediately on being relieved, returned to his former nefarious habits.

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DHARWAR.

Precautionary
Measures.

“The prisoner has been many times brought up for trial; on three occasions convictions were obtained, and the punishments of imprisonment and flogging awarded.

“That the prisoner is an old and well-known offender will be seen from the subjoined extract of proceedings against him of a similar nature, dated 12th March 1852. He has long been an object of suspicion to the Police, but has now become so expert in his vocation that he eludes their vigilance, and effects his depredations without affording a clue sufficient for conviction.”

The prisoner is required, under Regulation XII. Section XXV. of 1827, to furnish two securities each in Rs. 25 for his good conduct, viz. that he shall abstain from assisting in or committing theft or robbery, or receiving stolen property, knowing the same to have been stolen, for a period of three years from this date, or until the occasion be past. His securities, in default and failing payment, to suffer each six months' imprisonment.

In the Court of the Sudder Foujdaree Adawlut.—The Court cannot see the use of requiring security from this man, for, as he is said to be so expert as to elude the vigilance of the Police, and to effect his depredations without affording a clue sufficient for conviction, a man may safely become his security, for the bond could never be forfeited.

The Court would suggest to the Magistrate some of the measures contemplated in Clause 2nd, Section XXVII. Regulation XII. A. D. 1827, and would recommend him to try them.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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COLABA.

[Notices issued by the Joint Magistrate of Colaba, L. REID, and referred by that Officer to the Sudder Foudaree Adawlut, on the 24th April 1857.]

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank situated near the temple of Shree Wyzunath, at Brum Alee, in Kusba Tulé, Péta Tulé, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notices by the
 Joint Magistrate.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank called 'Modbercha Tulao,' situated in the vicinity of the Bazar at Kusba Tulé, Péta Tulé, Talóoka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank situated in the vicinity of Brum Alee, at Kusba Tulé, Péta Tulé, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

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COLABA.

Notices by the
Joint Magistrate.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank situated in the vicinity of 'Poosatee Alee,' at Kusba Tulé, Péta Tulé, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank situated in the vicinity of Moujé Morebé, Péta Tulé, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas it has been found necessary to preserve for drinking the water of the tank situated in the vicinity of Moujé Khurowlee, Péta Tulé, Talooka Rajpooree, in the Joint Magistracy of Colaba: all persons are hereby prohibited from bathing, and from washing animals, clothes, or any articles in it, and from dirtying it in any way. Disobedience of this Injunction will be punished according to law.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In compliance with the provisions of Clause 6th, Section XIX. Regulation XII. of 1827, I have the honour to forward to the Court of Sudder Foujdaree Adawlut six copies and translations of Injunctions issued by me this day.

Resolution of the Sudder Foujdaree Adawlut.—
Recorded.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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 May 13.

KAIRA.

[Case No. 4 of the Calendar of the Kaira Sessions Court for 1857. Committed by the Third Assistant Magistrate, G. W. ANDERSON, on the 28th February 1857. Tried by the Session Judge of Ahmedabad, on Circuit at Kaira, A. B. WARDEN, on the 13th and 14th April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Thaka Jita, Kolee, aged 28.

Wilful Murder.

Charge.—Wilful murder; in having, on or about Tuesday night, 24th February 1857, (corresponding with Magh Wud 30th, Sumvut 1913,) in the limits of Amlol Village, Napar Talooka, Kaira Zillah, without justifiable or extenuating cause, deprived of life Guman Humjee, by wounding him with a sword whilst he was watching in his field, and occasioning injuries from the effects of which he then and there died; prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—It appears from the Inquest Report, which has been recorded as No. 3, and which has been proved by the evidence of the witnesses Nos. 1 and 2 (Waljee and Girdhur), that the death of the deceased was caused by sword-wounds. The evidence of the witnesses Nos. 5, 6, and 7 (Ponja, Kala, and Neerat) proves that on the night in question, near midnight, they heard cries for help, and on repairing to the field of the deceased, that being the place from whence the cries seemed to come, they found the deceased, who had been wounded, rolling about the ground in agony. The witness Poonja, by the advice of the other two, went for the deceased's mother, witness No. 4 (Bai Sulook); and on her arrival she asked the deceased who had wounded him, and he, *in articulo mortis*, accused Thaka Rasia (the

A. B. Warden,
 Session Judge.

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prisoner at the bar) of having wounded him. The evidence of the witness No. 8 (Chand Khan) proves, that in consequence of information received from the mother of the deceased (witness No. 4) he went in search of prisoner, and apprehended him while it was yet dark. After daylight this witness repaired to the scene of the murder with the Puggées, when they found the mother of the deceased sitting near her son's corpse with a blood-stained sword in her hand, and which she delivered to them. The mother of the deceased has deposed that the sword was discovered by her concealed under some straw near the corpse; her attention was attracted to it by seeing blood on the straw, and which she kicked aside to ascertain how the blood came there, and then the sword was exposed to her view. From the evidence of the witness Chand Khan it further appears, that on his taking the sword to the Chowra and showing it to the prisoner, he (the prisoner) admitted that it was his, and confessed that he had murdered the deceased; that on the arrival of the Police Karkoons, who came to make inquiries about the murder, prisoner was asked whether any of his clothes were stained with blood, and he admitted that two of them were stained with blood; and that he had left them at his house between two earthen vessels. The witness Chand Khan then went to the prisoner's house and asked prisoner's wife for the clothes in question; she took them from the spot indicated by the prisoner, and gave them to the witness Chand Khan; the clothes were stained with blood, and were wet, having been recently washed. The evidence of the Sub-Assistant Surgeon (witness No. 13) proves that the stains on the clothes are blood-stains, and that the clothes had been washed with a view to remove the stains, but it had not answered the purpose; this witness's statement also proves that the sword is stained with blood. The evidence of witness No. 11 (Mana, the brother of the

prisoner) proves that the sword and the clothes are the property of the prisoner; although, with regard to the latter, the evidence of the witness Chand Khan is quite sufficient. The prisoner, during the first part of the trial, kept asserting that he was innocent, and that he knew nothing about the sword and clothes; but when he found that the evidence of the Sub-Assistant Surgeon clearly proved that the stains on the clothes were those of blood, he altered his line of defence (vide his question to the Sub-Assistant Surgeon). In addition to the above evidence, there is the prisoner's voluntary confession before the Police Amuldar and the Assistant Magistrate. The prisoner has retracted his confession before this Court, and denied all knowledge of it, but has not attempted to assert that it was extorted from him in any way. From the prisoner's confession it appears that he went to the tank of Umbalee village and washed his clothes, and then went to his house; this statement is to some extent corroborated by the Puggee (witness No. 12), who tracked the footsteps of a man from the scene of the murder to the limits of Umbalee village. The prisoner's motive for committing the deed, as far as can be learnt from his confession, was that the deceased had for some time past been in the habit of taking liberties with his (prisoner's) wife, and he was determined, on the first opportunity, to murder the deceased.

The Court considers it clearly proved that the prisoner at the bar is the person who murdered the deceased, and, as there is no extenuating circumstance whatever, it finds him guilty of wilful murder; in having, on or about Tuesday night, 24th February 1857, (corresponding with Magh Wud 30th, Sumvut 1913,) in the limits of Amlol village, Napar Talooka, Kaira Zillah, without justifiable or extenuating cause, deprived of life Guman Humjee, by wounding him with a sword

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whilst he was watching in his field, and occasioning injuries from the effects of which the said Guman Humjee died the same night.

After taking into consideration the nature of the offence proved against you, prisoner Thaka Jita, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXVI. Clause 4th, of 1827, the sentence of the Court is that you, prisoner Thaka Jita, be hung by the neck until you be dead, outside the town of Kaira. This sentence is, however, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

R. Keays, Puisne
Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Keays.—The substance of what the deceased told his mother in the presence of the three first witnesses cannot be considered as evidence; but I am of opinion that the confession given by the prisoner is amply corroborated by, first, the fact of the bloody sword, which was found in the field, being proved to be the property of the prisoner; and, second, by the bloody clothes being produced by the prisoner's wife from the place where the prisoner himself told the Havildar he had concealed them. Although the prisoner now denies his confession, he is proved to have admitted it before Mr. Anderson, the Third Assistant Magistrate, and he can give no satisfactory account of himself, or of the fact of the sword found in his field where the murder was committed being his; and, lastly, he now admits in his petition to the Court that he killed the deceased. This being so, I consider the conviction sound, and am prepared to confirm the sentence.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 80 of the Rutnagherry General Calendar for 1856. Com-
 mitted by the Deputy Magistrate, J. H. TROTT, on the 13th
 December 1856. Tried by the Acting Session Judge of the
 Konkun on Circuit, C. J. ERSKINE, on the 6th, 7th, and 8th April
 1857. Proceedings submitted for confirmation of the Sudder
 Foudaree Adawlut, by the Acting Session Judge of the Konkun.]

RUTNAGHERRY.

Prisoner.—Bapoo bin Ramjee Sheodia, aged 28, caste
 Koonbee.

Murder.

Charge.—Murder, in having, during the daytime,
 on or about Sunday the 16th November 1856, (Mitee
 Kartik Wud 4th, Shuké 1778,) in the jungles near
 Moujé Bondeeyé, Turuf Deorook, Talooka Rutnagherry,
 Rutnagherry Division, Zillah Konkun, wilfully, and with-
 out justifiable or extenuating cause, deprived of life
 one Pikka, the son of Raghoo bin Yéssoo Goroola, aged
 12 years, by wounding him on his neck with a wood-
 bill. (Regulation XIV. Section XXVI. Clause 1st, of
 1827.)

The charge is read and explained to the prisoner, who
 pleads not guilty.

Finding and Sentence by the Acting Session Judge.—
 The prisoner (Bapoo bin Ramjee Sheodia) is charged
 with the wilful murder of a boy named Pikka, son of
 Raghoo bin Yessoo Goroola.

C. J. Erskine,
 Acting Session
 Judge.

From the statement of Pikka's father, Raghoo (witness
 No. 5), it appears that about a month before the day on
 which his son disappeared, the boy complained that he
 had been beaten and abused by the prisoner. Pikka had
 previously accused the prisoner of abusing him on a
 former occasion, when they were herding cattle together
 in the jungle. The cause of the beating Raghoo under-
 stood to be that Pikka had left the herd and came home
 for bread. The witness No. 6 (Muhimee, mother of
 the deceased) likewise deposes that the boy complained

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about a week before his death that he (the prisoner) had abused him. Before the Deputy Magistrate this witness alleged that Pikka then complained also of having been beaten, but this she now denies. Jankee (witness No. 14), the mother of the prisoner, affirms that some weeks before the date of Pikka's death she twice heard him say to the prisoner,—“When my father comes I will tell him, if you go on laughing and bantering with my step-mother.” Jankee also testifies from personal observation that her son (the prisoner) appeared to be very familiar with the step-mother of the deceased, and she herself warned him against the intimacy, advising him not to continue to herd Raghoo's cattle, in case some evil should come of it.

The prisoner and the deceased, however, did continue to herd the cattle together (see witnesses Nos. 3, 5, 6, 7, and 14), and it seems (No. 5) that they were the only regular herds in the hamlet of Pair Warree.

On the morning of the day (Sunday) on which Pikka disappeared, he went as usual to graze the cattle in the jungle; as he did not return at the usual hour, his father (witness No. 5) asked the prisoner where he was, and was told that he had not been with the herd that day. The boy's mother (witness No. 6), however, affirms that she saw her son go with the cattle towards the river in the morning, and that she saw the prisoner bringing up the cattle from the same quarter in the evening. It should be mentioned that there seem to be jungles and grazing grounds both on the hill above and near the river (Bownuddee) below the hamlet in which the prisoner and deceased resided.

As the boy had not returned when it became dark, his father searched for him that night in his own village, and next day (Monday) in the surrounding jungles. On Tuesday morning he went to several of the neighbouring villages to inquire for him, and as he could

obtain no tidings, applied about 2 p. m. on that day to the Foujdar, Venayek Apajee (witness No. 7). This Officer, with many of the villagers, searched for the boy Pikka during Tuesday, Wednesday, and Thursday, but they did not succeed in finding him. Being disappointed in these attempts, the father determined (on Friday morning) to consult the idol at a village (Kansar Kolwan) not far off. He was there advised to continue his search in the places in which he had before begun it; and accordingly he proceeded, before the hour of noon on Friday, with his wife Muhimee and one Sona Antinkur, to search once more in the lower jungle and the river Bownuddée. In this river the body of the deceased was at length discovered by his mother. It was lying in a shallow part of the stream, a little way below a deep pool. It was hardly covered by the water. The father and mother sat down beside it, and sent Sona Antinkur to inform the Foujdar. The Foujdar came without delay, and was accompanied by some of the villagers. They recognised and examined the body; and as it appeared from a deep wound in its neck that the boy had been murdered, the prisoner, who had been his usual companion in the jungles, was arrested on suspicion of being concerned in the crime. The prisoner made no confession of guilt that evening, but he was detained in confinement, and a watch was stationed near the body.

Next morning (Saturday), as the Foujdar (witness No. 7) states, the prisoner made a partial confession to him, but he did not act upon it, as he wished that the investigation should be conducted by the regular Police Authorities. During the same day a Police Jemedar (witness No. 11), on his rounds with two Police Sepoys, arrived in the village, and he at once entered upon the inquiry. The prisoner renewed his confession before the Jemedar, and it was then written down.

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When making this confession the prisoner described the manner in which he had murdered the boy Pikka, and pointed out the weapon which he had used. He also stated that he could show the spot in which the murder had been committed, and the place in which the articles belonging to the deceased were concealed.

The Jemedar (witness No. 11) therefore proceeded to the river, where the body had been found and left. Thence he visited the very scene of the crime as described by the prisoner, and the spot whence the dead body (it was said) had been thrown from the bank of the river into the pool below. He also sent persons to bring the articles belonging to the deceased from the place in which the prisoner alleged that they had been secreted, and where, in fact, they were found.

On the next day (Sunday) the Mahalkuree of Sungmeshwur (witness No. 13) arrived. He likewise visited all the places indicated by the prisoner, and inquired generally into the circumstances of the case. He appointed a Jury to hold an Inquest on the body and report the result, which they did on the same evening. From their report (No. 4) it appears that the Jury found on the neck of the corpse a deep and terrible wound, which had been inflicted apparently with a 'koeetee' or other sharp instrument, and by which the head had nearly been severed from the trunk; no other wounds were found on the body, but it was swollen and otherwise injured, owing to its having lain a long time in the water. A 'lungotee' which was on it was stained with blood.

The statements of the Foujdar (witness No. 7), the Jemedar (witness No. 11), the Mahalkuree (witness No. 13), and those who accompanied them (witnesses Nos. 2, 3, 5, 7, 10, and 12), establish that at the spot pointed out by the prisoner as the exact scene of the murder (and which was in the jungles distant about 200 paces from the place at which the body was found), the

long grass had been laid and broken, and the ground covered with blood. These witnesses went from this spot to the bank of the river near it, and found that it overlooked a pool in which there was water to the depth of about a man's stature. The pool was a little above the shallow on which the corpse had rested. Witnesses Nos. 7, 10, and 12 were sent to look for the things which had been about the person of the deceased on the day of his death, and depose that they found them under some 'bewla' trees in the place described to them by the prisoner. The articles thus obtained were then recognised, and have been recognised before the Court by the parents of the deceased as those which he was in the habit of taking with him to the jungles, and which he had taken with him on the day of his death.

These statements and appearances are in all respects confirmed and accounted for by the prisoner's confession, which, it is proved, was voluntarily made before the Police Jemadar, renewed before the Mahalkuree, and confirmed before the Deputy Magistrate at Rutnagherry.

In this confession the prisoner affirms that he had an improper intimacy with a woman named Ruckmee, the second wife of the witness No. 5 (Raghoo) and step-mother of the boy Pikka; that Pikka had witnessed criminal conduct between him (prisoner) and this woman, and had threatened to expose them; and that Ruckmee had consequently urged him to murder the boy, in order that her reputation might be saved. Owing to these instigations, as he alleges, the prisoner was induced to destroy the boy Pikka. Finding him one day sitting in the jungle on the spot which he afterwards pointed out, he seized him (Pikka) by the lock of hair on his head with his left hand, and with his right hand struck him a blow on the back of the neck with a 'koeetee.' This blow nearly severed the head from the body, and caused the ghastly wound described in the Inquest Report. The

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prisoner then, as he affirms, took the corpse to the high bank of the river, which was near, and dropped it into the pool below. The few things which the deceased had with him were taken away and concealed by the prisoner under some bewla trees, where they were afterwards found.

The statements of the prisoner as to his connection with the woman Ruckmee were denied by her, and their truth has not been certainly established ; but, from what has transpired during the trial, it seems very probable that they are true, and it is at least shown that the liberties which she allowed the prisoner to take with her had attracted the notice of the boy (her step-son), and that he had threatened to report them to his father (her husband). All the rest of the prisoner's statement is fully corroborated and confirmed by the depositions of witnesses and by the circumstances of the case, as already noticed in detail.

It is proved, therefore, that there had been disputes and abuse between the prisoner Bapoo and the deceased Pikka shortly before his disappearance ; that the prisoner and the deceased were herding cattle together in the direction of the river on the day of the disappearance ; that when Pikka's body was found in the river, it bore marks of wounding, which leave no doubt that the deceased came to a violent death ; that on the morning after his arrest the prisoner confessed that he was the murderer, and that he made this confession without inducement or compulsion ; that he conducted the Police to the spot where he said that the murder had been committed ; that he indicated the weapon with which the murder was committed ; that he described the manner of its commission, and that all these details were in harmony with the appearances on the corpse and at the scene of the crime ; that he took the Police to the bank from which he said that he had thrown the

corpse into the pool, and that this place was a little above that at which the corpse was found, so that the body might well have floated from the deep pool which first received it to the shallow where it was at last discovered; that he described the spot in which he had concealed the effects of the deceased, which were found there from his description and recognised by the friends of the boy; lastly, that he confirmed his confession voluntarily in the presence of witnesses Nos. 16 and 17, even before the Deputy Magistrate at Rutnagherry.

Under these circumstances, it is impossible to doubt that the prisoner at the bar is guilty of the cruel and deliberate murder of the boy Pikka. He is therefore convicted of murder, as set forth in the charge on which he has been arraigned.

Sentence.—That you, prisoner Bapoo bin Ramjee Sheodia, be hanged by the neck until you be dead, at the usual place of execution at Rutnagherry. Subject to the confirmation of the Judges of the Sudder Foudaree Adawlut. (Regulation XIV. Section XXVI. Clause 4th, of 1827.)

In the Court of Sudder Foudaree Adawlut; Minute Mr. Keays.—This case has been most carefully tried by Mr. Erskine. It is impossible to doubt the guilt of the prisoner. It is first shown that the boy went out, on the morning of the day he was killed, to graze cattle in the same direction as the prisoner, these two being the only herdsmen in the village. Next, it is in evidence that prisoner brought home the deceased's cattle on the evening he was missing; that he had had a quarrel with deceased a few days before his death; that the body was eventually discovered in the shallow of the river near the place where the boy usually grazed his cattle; that the prisoner, before the Police Authorities, gave a full confession, which is proved to have been voluntarily given, and this confession is corroborated by all the facts and cir-

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cumstances of the case; that he pointed out the scene of the murder, which bore evident marks of violence having occurred; then the wound on the body corresponds with the wound which the prisoner describes himself to have given; and even the motive assigned by the prisoner in his confession for this diabolical outrage is more than partially brought out by the evidence. I have not the slightest doubt of the prisoner's guilt, and am prepared to confirm conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

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SURAT.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Cases Nos. 12, 13, 15, and 16 of the Calendar of the Surat Sessions Court for 1857. Committed by J. MORIARTY, Acting Second Assistant Magistrate of Surat, on the 21st, 24th, and 26th March 1857. Tried by A. K. FORBES, Acting Session Judge, on the 3rd April 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Wilful Perjury. *Prisoner in Case No. 12.*—Bae Lukee, daughter of Juversing, aged 16.

No. 13.—Bae Rutnee *alias* Wughrælee, Widow of Sookhla, aged 22.

No. 15.—Khoonee Dhunee, aged 32.

No. 16.—Soonia Siva Dooblo, aged 30.

Charge in Case No. 12.—Wilful perjury; in having, on the 6th August 1856, (or Sumvut 1912, Shrawun Shood 5th,) while giving evidence, on solemn affirmation, before the Session Judge of Surat, in a case in which prisoners Jeevunjee Ookerjee, Jethio Dhootro, and Bhungro Dealio were on trial under a charge of having murdered a woman named Guloo, made a deposition containing the

following false statement, with the view of procuring the acquittal of the abovementioned prisoners:—"I do not know what or how many persons came into her house on the night that Guloo died."

Prisoner pleads not guilty.

Charge in Case No. 13.—Wilful perjury ; in having, on the 6th August 1856, (or Sumvut 1912, Shrawun Shood 5th,) while giving evidence, on solemn affirmation, before the Session Judge of Surat, in a case in which prisoners Jeevunjee Ookerjee, Jethio Dhootro, and Bhungro Dealio were on trial under a charge of having wilfully murdered a woman named Guloo, made a deposition containing the following false statement, with the view of procuring the acquittal of the abovementioned prisoners:—"I did not see who murdered Guloo. The deposition given by me before the Foujdar of Mandvee, in which it is stated that the three prisoners in the dock murdered Guloo, was made by me through fear of and after having been beaten."

Prisoner pleads not guilty.

Charge in Case No. 15.—Wilful perjury ; in having, on the 6th August 1856, (or Sumvut 1912, Shrawun Shood 5th,) while giving evidence, on solemn affirmation, before the Session Judge of Surat, in a case in which prisoners Jeevunjee Ookerjee, Jethio Dhootro, and Bhungro Dealio were on trial under a charge of having murdered a woman named Guloo, made a deposition containing the following false statement, with the view of procuring the acquittal of the abovementioned prisoners:—"I did not see who entered her house on the night that Guloo died, nor did I see any one flee out of it."

Prisoner pleads not guilty.

Charge in Case No. 16.—Wilful perjury ; in having, on the 6th August 1856, (or Sumvut 1912, Shrawun Shood 5th,) while giving evidence on solemn affirmation before the Session Judge of Surat, in a case in which

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prisoners Jeevunjee Ookerjee, Jethio Dhootro, and Bhungro Dealiō were on trial under a charge of having murdered a woman named Guloo, made a deposition containing the following false statement, with the view of procuring the acquittal of the above prisoners:—
“I did not see any one enter the house; nor did I see Jeevunjee (prisoner No. 1) come out of his house on the night that Guloo died.”

A. K. Forbes,
Acting Session
Judge.

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court in Case No. 12.—There can be no question that the woman Guloo was really murdered; so much indeed the prisoner herself states to have been the case in her deposition before the Sessions Court. She then also stated that she was lying close to Guloo at the time when the murder must have taken place. It is therefore extremely improbable that she knew no more of the matter than she then admitted that she knew. Before the Police Authorities, however, prisoner made a distinct statement that she saw Jeevunjee Ookerjee, Bhungro, and Jethio in the act of murdering Guloo; and she also assigned the reason for the murder, namely, that Jeevunjee's brother was supposed to have been killed by Guloo's witchcraft. Prisoner Lukee has therefore been guilty of the perjury with which she was charged, and she is accordingly convicted of the same.

Prisoner Lukee is the granddaughter of the deceased Guloo. She very probably committed the perjury, of which she has been convicted, under the influence of fear; but, whatever her motive may have been, the effect remains the same, and the perpetrators of a very cruel murder have, very much owing to her offence, escaped punishment.

The Court sentences prisoner Lukee to be imprisoned with hard labour for two (2) years, under Regulation XIV. of 1827, Section XVI. Clause 2nd, and Act V. of

1840. Subject to the confirmation of the Sudder Foudaree Adawlut.

Finding and Sentence by the Sessions Court in Case No. 13.—This case is similar to the one which has just been tried.

Prisoner stated before the Sessions Court that she was sleeping close to Guloo during the night on which Guloo was murdered; that when she awoke in the morning she found that Guloo was dead, having had her throat cut; and that she did not know who had murdered her.

Before the Police the prisoner stated, on the contrary, that she was awakened during the night by Lukee, and then saw Jeevunjee, Jethio, and Bhungro in the house, the two last holding Guloo down, and that when they ran off Guloo was found to be dead. Prisoner also stated that Jeevunjee's brother was supposed to have been destroyed by Guloo's witchcraft, and that that was the cause of the murder.

Prisoner subsequently stated that the statement before the Police was extorted from her; and in the present case she calls two witnesses to prove this, who fail, however, to prove it.

Prisoner is convicted of the offence of wilful perjury, and sentenced, under Regulation XIV. of 1827, Section XVI. Clause 2nd, and Act V. of 1840, to be imprisoned with hard labour for two (2) years. This sentence being subject to the confirmation of the Judges of the Sudder Foudaree Adawlut.

Finding and Sentence by the Acting Session Judge in Case No. 15.—Prisoner stated before the Sessions Court that Lukee awoke him early in the morning, and that she told him some one had cut the old woman's throat and run off; that on this he got up and saw that Guloo's throat had been cut and that she was bleeding, but that he did not see who entered the house the night of the murder, nor did he see any one escaping from it.

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Before the Police prisoner said that he was awakened, about the time the moon went down, by Lukee's stumbling over him ; that Lukee then told him Guloo had been murdered ; and that he saw, by the light of a bundle of reeds burning on the fire, that Jeevunjee, Bhungro, and Jethio were making away from the house:

He subsequently says that this latter statement was falsely made, and that he was induced to make it by the fear that he would be beaten ; but he does not attempt to prove that any force was employed to induce him to make the statement.

Prisoner is convicted of the wilful perjury with which he is charged, and sentenced, under Regulation XIV. of 1827, Section XVI. Clause 2nd, and Act V. of 1840, to be imprisoned for two (2) years with hard labour. This sentence being subject to confirmation by the Sudder Foujdaree Adawlut.

A. K. Forbes,
Acting Session
Judge.

Finding and Sentence by the Acting Session Judge in Case No. 16.—Prisoner stated before the Sessions Court that he slept near a well outside Jeevunjee's house the night that Guloo was murdered ; that he did not see any one enter Guloo's house ; and that he did not see Jeevunjee come out of his house that night.

His statement before the Police is, that about the time the moon went down in the night Guloo was murdered, he saw Jeevunjee, Bhungro, and Jethio coming out of Jeevunjee's house ; that he wondered where they could be going to, and, having got up, saw them enter Guloo's house ; that he saw them come out of Guloo's house after a stay there of long duration, and that they proceeded to the Kharee. In the morning he heard that Guloo had been murdered, and then thought that the three persons above mentioned must have murdered her, because he was aware that Guloo was suspected by them of having caused the death of Jeevunjee's brother by her witchcraft.

Prisoner's defence is, that what is contained in his deposition before the Foujdar was not written down from anything that he said, but that he was beaten and the paper ready written then shown to him, and that he said, on being questioned, that he supposed the contents were true. Prisoner does not prove this.

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Prisoner is convicted of the wilful perjury with which he has been charged, and is sentenced, under Regulation XIV. of 1827, Section XVI. Clause 2nd, and Act V. of 1840, to be imprisoned with hard labour for two (2) years. This sentence being subject to the confirmation of the Sudder Foujdaree Adawlut.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere in Case No. 16.—The deposition first given must be assumed to be true until the prisoner proves the facts which he says induced him to make a false statement ; he has not attempted that, and the conviction and sentence may be confirmed.

W. E. Frere,
Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut in all the Cases.—The conviction and sentence are confirmed.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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BELGAUM.

[Case No. 14 of the Calendar of the Dharwar Sessions Court for 1857. Committed by the First Assistant Magistrate, W. H. HAVELOCK, on the 31st January 1857. Tried by the Session Judge, A. W. JONES, on the 5th and 6th March 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Ramsingh bin Tooljaram, Rajpoot, aged 35.

Murder.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, of 1827) ; in having, on the night of Sunday, the 14th December 1856, (corresponding with Margsheersh Wud 3rd, Shuké 1778,) in the house of one Rungbhut, at Seroor, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, when engaged

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Session Judge.

in an unlawful act, whether an attempt at robbery or not is not clearly proved, struck Girmula bin Sukryapa a blow on the head with a club, from the effects of which blow the said Girmula bin Sukryapa then and there died.

Finding and Sentence by the Sessions Court.—In this case the prisoner is charged with murder, and pleads not guilty.

It appears that a man named Rungbhut, of the village of Seroor, in the Bagulkote Talooka, of the Belgaum Collectorate, had called in a Native physician to attend his son, who was deranged, and that this physician had, as a servant with him, the prisoner at the bar. On the last visit paid by them to the family, it was supposed that a box of medicines had been left behind, and the servant was sent back to Rungbhut's house for it, and arrived there on the evening of Saturday the 13th December. Rungbhut, however, could not find the box, and the prisoner went to a village further back for it. The next day he came through Seroor again, and returned to the house, telling Rungbhut's wife he had not found the box. She gave the prisoner his morning and his evening meal, and she states she desired him to go and sleep for the night at some temple, as her husband had gone to Bagulkote for the day; but the prisoner excused himself, saying he was tired, &c.; so she allowed him to remain, and soon after fell asleep, but was awoke by the basket of 'jowaree,' which she had put near her when she lay down, falling over her, and, on looking about, saw that a man was near her and that the light was out. She knew it must be the prisoner, as he was the only man in the house, and therefore began to cry out; but he told her to be quiet and give up her ornaments, on which, being frightened, she told him to look for them, and went herself to the front door and began screaming for help.

Upon this two neighbours of hers, named Kowlia and

Girmula, came to her assistance, and getting into the house by the back door, went towards the prisoner, who had retired to a dark part of the house. Kowlia says that they merely called to him, but had not time to try and seize him, as, immediately on being called, the prisoner came forward and struck him on the head with a bludgeon, and knocked him down; and the wife of Rungbhut shows that, after having thus disposed of Kowlia, the prisoner attacked Girmula, the deceased, and struck him several times on the head with the club or bludgeon before the Court, and knocked him down also.

By this time, however, the cries of Rungbhut's wife had called the Police Patel and Shetsundees from the Chowree, and while the Police Patel and others went to the front, Nagya, one of the Shetsundees, and two Peons, went round to the back door, and one of the Peons mounted on the roof, while Nagya stood at the door with his drawn sword, and hearing the woman inside crying out, "He has knocked down Girmula," &c., and seeing a man come out with a stone in his hand, he struck him over the arm, and when the man stooped as if to pick up another stone, cut him down with a blow on the back, after which he was secured. This Shetsundee's deposition is supported by the evidence of the two Peons (witnesses Nos. 8 and 9).

The prisoner denied his statements to the Foujdar and Police Amuldar of Bagulkote before the Assistant Magistrate and before the Court; but it appeared unnecessary to prove he had given them, as, though he admitted therein that he had struck Kowlia and the deceased, he declared they had beaten him with sticks. His defence now is, that the wife of Rungbhut pulled his "dhotur" during the night, and that, not knowing what it was, he had kicked out and knocked her down, on which she cried out and brought in the neighbours, who beat him, but that he struck no one at all.

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The Session Judge, however, can see no reason whatever to doubt the story of Suruswutyowa that the prisoner attempted and intended to rob her: it is not impossible that he may have approached her with other intentions, as alluded to in the Inquest Report; but her age, which can be little if at all less than that given in her deposition before the Court, and her appearance certainly make it improbable.

Moreover, the fact of his attacking the witness Kowlia and the deceased before they had made any effort to seize him, and his attempt to escape out of the house, must make against him.

The Session Judge, therefore, considers the evidence of Suruswutyowa is sufficient to prove that the prisoner attempted to rob her, and that the evidence of Suruswutyowa and Kowlia suffices to prove that he struck the deceased and caused his death.

It is shown in the Inquest Report, which was proved before the Court, that the death of Girmula had been caused by a blow on the head by a club or bludgeon; and the club before the Court, which is a kind of short 'mugdool,' was shown to have been found by the Police Patel lying close to Girmula on the floor of Rungbhut's house when he went in and found Kowlia and Girmula lying there, and it was identified by the wife of Rungbhut as having been carried by the prisoner when he came to their house previously.

It is stated by Kowlia that neither he nor Girmula had any weapon or even a stick when they entered Rungbhut's house intending to seize the prisoner: this is no doubt true, as the Police Patel declares he found nothing of the kind, except the club, in the house. The prisoner, therefore, had not the slightest excuse for the violence he used towards the deceased; and as a man who strikes another on the head with a heavy club, like that before the Court, must be considered to have pur-

poscu nis death, the Session Judge is of opinion that the prisoner must be convicted of murder; in having, on the night of Sunday, the 14th December 1856, (corresponding with Margsheersh Wud 3rd, Shuké 1778,) in the house of one Rungbhut, at Seroor, in the Bagulkote Talooka, in the Belgaum Division of the Dharwar Zillah, when attempting to rob a female named Suruswutyowa, struck Girmula bin Sukryapa a blow on the head with a club, from the effects of which blow the said Girmula bin Sukryapa then and there died.

And, after considering the nature of the crime committed, and the punishment assigned thereto in Regulation XIV. Section XXVI. Clause 4th, of 1827, the following sentence is passed:—

That you, Ramsingh bin Tooljaram, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

* * * * *

The Session Judge cannot agree with the Assistant Magistrate that the Shetsundee Nagia deserves a reward (that is a pecuniary reward) for cutting the prisoner down. He was quite justified in doing so, as the prisoner was said to have wounded two men already, and deserves praise for acting decidedly; and the Department in which he serves has probably means of showing approval in a more appropriate manner.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

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BELGAUM.
Murder.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDNUGGUR. [Case No. 75 of the Calendar of the Ahmednuggur Sessions Court for 1856. Committed by the Acting Deputy Magistrate, RAMCHUNDER AMRIT, on the 27th November 1856. Tried by the Assistant Session Judge, A. E. D. GREY, on the 2nd, 4th, and 5th December 1856. Reviewed by the Session Judge, J. W. WOODCOCK, on the 23rd January 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Bala wulud Gopala.]

Forgery ; and
making Fraudu-
lent Use of a
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ment.

Prisoners.—No. 1, Tookojee wulud Jakhojee, Koon-
bee, aged 35.

2, Bala wulud Gopala, Lohar, aged
30.

Charge.—Against prisoner No. 1 (Tookojee), forgery ; in having, between 27th March and 14th July 1856, (corresponding with Falgoon Wud 6th, Shuké 1777, and Ashad Shood 12th, Shuké 1778,) at either Moujé Manolee or Moujé Wozur Khoord, Talooka Sungumnair, Zillah Ahmednuggur, fabricated a document, purporting to be a receipt granted by complainant, Govindjee wulud Manajee, to prisoner No. 2 (Bala) for Rs. 10, with the fraudulent intention of clearing prisoner No. 2 (Bala) of all his liabilities to complainant, without any payment of money by the former to the latter. (Regulation XIV. of 1827, Section XVII. Clause 1st.)

Against prisoner No. 2 (Bala), making fraudulent use of a forged document ; in having, on 14th July 1856, (corresponding with Ashad Shood 12th, Shuké 1778,) at Kusba Sungumnair, Zillah Ahmednuggur, produced the said receipt in the Moonsiff's Court as a proof of his having paid Rs. 10 in liquidation of the debts due by him to the complainant. (Regulation XIV. of 1827, Section XVII. Clause 2nd.)

A. E. D. Grey,
Assistant Session
Judge.

Finding and Sentence by the Sessions Court.—In this case the prisoners have been charged, No. 1 (Tookojee)

with forgery, and No. 2 (Bala) with making fraudulent use of a forged document; and have pleaded not guilty.

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From the evidence adduced in the case it appears that Govinda (witness No. 1) filed a suit against prisoner No. 2 (Bala) in the Court of the Moonsiff of Sungumnair, to recover principal and interest due on a bond. Bala, through his Vakeel Kucheswur (witness No. 8), answered (No. 11) that he was not indebted, and filed a receipt (No. 9) purporting to have been granted to him by Govinda (witness No. 1), which acknowledged payment of Rs. 10 on two bonds, which were to be considered henceforth null and void if ever produced. Subsequently, however, to filing this document, Govinda, who had brought the suit against Bala, was summoned by him to the house of Mulba (witness No. 7) in Manolee, where, in the presence of Apa (witness No. 4); Sudasew (witness No. 5), Mahadjee (witness No. 6), and others, Bala volunteered to settle the claim which Govinda had against him for the bonds, and, in the presence of these witnesses, handed him Rs. 15, and received in return a receipt for the amount, written and witnessed by Apa (witness No. 4). This receipt is naturally not forthcoming, as the production of it by Bala would only strengthen the case against him. Soon after this settlement had been made, the parties, Govinda and Bala, went to the Moonsiff's Court and instructed their Vakeels to withdraw the suit, each party paying his own costs. The Vakeel of Bala, Kucheswur (witness No. 8), deposes to Govinda having said that he had received Rs. 12-12-0 on the bond on which he had sued, which Bala did not deny; and on Kucheswur (witness No. 8) asking him why he had thus settled the matter, holding as he did a receipt of former payment, he remarked that he had been induced by some persons to do so.

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It having been shown by testimony which there is no reason to doubt, that Bala answered the suit against him

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by filing a receipt for the amount of the claim, but that immediately afterwards he settled the claim by actually paying money to his creditor to induce him to withdraw his suit, it is but reasonable to suppose that he had no reliance on the document (No. 9) which forms the subject of this inquiry, and that it was a fabrication. The persons whose names are written as witnesses, Oomajee (No. 2) and Girjajee (No. 3), deny having witnessed it ; and it is but just to infer that if the payment had been made as set forth in the receipt, the prisoner Bala would have had some proof forthcoming of the time, place, and manner of payment. The true explanation of the reasons why the matter was settled out of Court may be gathered from the statement of the prisoner himself, who says he compromised the matter because the witnesses to the receipt refused to depose to the genuineness of the document, and he became frightened about the consequence of filing this false document. The assertion of the prisoner, that Govinda compromised the matter without receiving any payment, is most improbable, as no other reason has been shown why he should forego his claim. The whole circumstances of the case tend to show that prisoner Bala was anxious to rid himself of the consequences of filing the document (No. 9) ; and it having been repudiated by the attesting witnesses, and no payment on it having been proved, the Assistant Session Judge has no doubt whatever that it is a forgery, and was made use of by Bala with a fraudulent intent.

As regards Tookojee, there is no evidence against him, but his only acknowledgment that he wrote the receipt, which now, to clear himself, he says he did at the request of Govinda. The Assistant Session Judge, however, does not consider that fraudulent intent can be sufficiently inferred from this prisoner's acknowledgment that he merely wrote the receipt, especially as he has no interest in the transaction to which it relates. The careless manner

in which documents regarding money transactions are in this country written, and the still more careless manner in which all documents are witnessed, even criminal depositions before constituted Authorities, render it quite possible that the writer of this bond in this instance might have written the document, and even the witnesses' names without their being present, and still not have known that it was afterwards to be applied to a fraudulent purpose. Prisoner Tookojee is therefore acquitted, and discharged from the bar.

- Prisoner No. 2 (Bala wulud Gopala) is convicted of making fraudulent use of a forged document ; in having, on 14th July 1856, (corresponding with Ashad Shood 12th, Shuké 1778) at Kusba Sungumnair, Zillah Ahmednuggur, produced the said receipt in the Moonsiff's Court as a proof of his having paid Rs. 10 in liquidation of the debts due by him to the complainant. And the following sentence is passed :—

That you, Bala wulud Gopala, be imprisoned and kept to hard labour for one (1) year. (Regulation XIV. of 1827, Section XVII. Clause 2nd.)

Reviewed by the Session Judge.—The Court sees no cause for interference, as it was fully proved that prisoner made use of a forged receipt, knowing it to be so ; indeed, if the Assistant Session Judge had added fine to the imprisonment, he would not have punished the prisoner more than he deserved. The crime of forgery is of frequent occurrence, and requires to be put down by severe punishment.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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AHMEDNUGGUR.

Forgery; and
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lent Use of a Forged Document.

J.W. Woodcock,
Session Judge.

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KHANDEISH.
Wilful Murder.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 16 of the Calendar of the Khandeish Sessions Court for 1857. Committed by the Supernumerary First Assistant Magistrate, A. R. GRANT, on the 6th April 1857. Tried by the Session Judge, A. ST. JOHN RICHARDSON, on the 17th April 1857. Proceedings submitted for the confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Gungaram wulud Bapoo, Brahmin Kshé-tree, aged 35.

Charge.—Wilful murder; in having, at Sawda, in the District of Sawda, Province Khandeish, on the night of Friday the 6th March 1857, (corresponding with Falsoon Shood 11th, Shuké 1778,) purposely, and without justifiable or extenuating cause, deprived of life his wife Wani, aged 20 years, by inflicting two severe and deep wounds on her head with an axe, from the effects of which she died on the night between the 29th and 30th day of the same month; prisoner thereby rendering himself amenable to the provisions of Section XXVI. Clause 1st, Regulation XIV. of 1827.

Prisoner pleads not guilty.

A. St. John Richardson, Session Judge.

Finding and Sentence by the Sessions Court.—The Court finds the evidence recorded for the prosecution of the most unequivocal character. There is no ground for doubt. The facts are simply these:—A man, jealous of a young wife, who, like himself, has been twice married, takes offence at the approach of a youth, even though (as the witness No. 9, Ramjee, appears) diminutive, emaciated, altogether mean in appearance, and forthwith retires angrily from a dinner-party, where his wife and about fifty other women are being waited on by four men, himself being the fourth. The evidence of the other three men is that of eye-witnesses to the whole scene (Nos. 7, 8, and 9), and they distinctly affirm they are aware of no cause for the conduct of the prisoner. His wife refused a certain dish offered by the

master of the entertainment (Sheshadrée, No. 7), and the prisoner, said angrily, "Do not speak to her," and retired apart to a verandah or terrace, whence in less than ten or twelve minutes (half a Native hour of 24 minutes) he re-appeared with an axe, identified by the witnesses as that in Court; had struck his wife from behind on the top of her head before the witnesses were aware, and was seen by them to strike her a *second*, and was prevented from striking a *third* blow by the witness Gunoba. Both he and Sheshadree and the prisoner are men of middle age, when the passions are usually under more control than in young men. The prisoner deliberated, as shown by his angry withdrawal and the time that elapsed before he made his attack. The nature of the weapon (sharp and heavy long-handled axe), and the number of the blows, all show that intention; while the striking at the head, and the result of the death of the victim within twenty-four days after, contribute clearly to make the offence amount to murder.

That the woman is dead is proved by the evidence of three witnesses. Others of the members of the Inquest were not examined by the Court, because they could not identify the corpse to be that of the deceased Wani, the wife of Gungaram wulud Bapoo (the prisoner), and the other witnesses, Narayen Akajee (No. 2) and Doolichund wulud Bhow (No. 6), affirm their report of the Inquest No. 3, and also the identity of the deceased, and they corroborate the evidence of the Police Patel of Sawda, Bhowanee wulud Pilajee (witness No. 11), to the effect that Wani did die on the night of 29th or the morning of 30th March, from the effects of the blows received from her husband on the night of 6th March 1857. The description given of those wounds by witness No. 10 is sufficiently convincing that they were calculated, under ordinary circumstances, to cause death,—“the axe in each wound had penetrated to the brain.” The wo-

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man's legs were swollen from guinea worms; it is affirmed she died of fever (probably inflammation) in twenty-four days after the assault, but that fever was caused by the effects of the wounds.

The act of the prisoner and the death of the victim are proved by the strongest evidence on record; the intention is evinced by the nature of the assault, the weapon used, and by the time between the supposed offence and the dreadful act of revenge, during which the prisoner must have deliberated; and therefore the Court finds the prisoner Gungaram wulud Bapoo guilty of wilful murder; in having, at Sawda, in the District of Sawda, Province Khandeish, on the night of Friday the 6th March 1857, (corresponding with Falgoon Shood 11th, Shuké 1778,) purposely, and without justifiable or extenuating cause, deprived of life his wife Wani, aged 20 years, by inflicting two severe and deep wounds on her head with an axe, from the effects of which she died on the night between the 29th and 30th day of the same month, and proceeds to pass the following sentence:—

You, Gungaram wulud Bapoo, having been convicted, upon evidence this day recorded, of wilful murder, do undergo the punishment of death, and are hereby ordered to be conveyed to the usual place of execution at Dhoolia, and be hanged by the neck till you be dead, agreeably to the provisions of Section XXVI. Clause 4th, Regulation XIV. of 1827.

The above sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * *

The Court begs to draw the attention of the Magistrate to the fact that the Assistant Magistrate's proceedings do not bear the date of the month, nor does the English version of the indictment show the Hindoo year corresponding with the English date—omissions not material to the inquiry, but, as the witnesses in this trial made

their appearance at the Court on Tuesday the 14th, while the proceedings and the prisoner were not received till 3-53 P. M., on Thursday the 16th, it is considered necessary to remind the Supernumerary First Assistant Magistrate of his oversight.

The Court has further to observe that the axe, identified by three of the witnesses as that with which the murderous assault was committed, was found, by the application of the microscope, to be stained in a few places on the blade with human blood mixed with minute pieces of bone, and a few stains of human blood were on the handle; but it was evident that the blade had been recently placed on a grindstone or beaten with a hammer, and otherwise the handle also had been scraped, with the intention of removing the stains. It would be satisfactory if more stringent measures were in future adopted, so as to retain in the original condition all such articles as may elucidate the circumstances connected with the offence. In the present instance the District Officer should be called on to report the date from which he received possession of the axe, and with whom it was, during the period previous to the 16th instant, deposited.

Letter from the Civil Surgeon to the Session Judge.—With reference to your letter No. 299 of 1857 I have the honour to state, that on examining the stains on the handle of the axe by a powerful microscope, human blood was detected, as evinced by the peculiar red corpuscles and their depressed centres; the blood also was proved to be human by various other tests used in such cases.

Not only on the handle but on the blade of the axe was this blood detected, and a white hard substance seen near the edge, which, on being tested, proved, under microscopical examination, to be the bone of a human being.

I regret that, being confined to my room on account of sickness, I was yesterday unable to appear before the Court and give the evidence called for.

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I beg to return herewith the axe you sent.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed.

The Court remark that there were two witnesses to the Inquest Report who knew nothing whatever on the subject to which they were called to speak, and need not have been examined; also that the confession of the prisoner should have been proved before it was recorded.

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Unintentional
Commission of
Culpable Homicide and Assault.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 4 of the Calendar of the Khandeish Sessions Court for 1857. Committed by the Deputy Magistrate, RAM NAID, on the 30th January 1857. Tried by the Session Judge, A. ST. JOHN RICHARDSON, on the 7th and 12th February 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner.]

Prisoner.—Mahadoo wulud Bhicka, Koonbee, aged 22.

Charge.—Unintentional commission of culpable homicide and assault; in having, at about 7 o'clock on the night of Monday the 17th November 1856, (corresponding with Kartik Wud 5th, Shuké 1778,) within the limits of the Town of Bhurgaum, District Bhurgaum, Province Khandeish, deviated from the road, and, in culpable disregard of injury to others, driven his cart so furiously that a woman named Bhagoo, wife of Sudoo, aged 35, who was walking along the road with a child three years old, named Pootlee, in her arms, was knocked down on the ground, and so injured by the cart going over her that she died within two hours afterwards, and the child was severely wounded in the left thigh; prisoner thereby rendering himself amenable to the provisions of Clause 3rd, Section I. Regulation XIV. of 1827, in conjunction with Section XXVII. of the said Regulation.

Prisoner pleads not guilty.

• Finding and Sentence by the Sessions Court.—The Court has two questions to consider: whether the act of prisoner, as shown on evidence, is of such a character as showing gross and culpable absence of that care which every one entrusted with the charge of an unwieldy vehicle, and with animals over which it is a known fact little or no control can be exercised, should at all times observe; and whether the act of the prisoner, indicative of the absence of such care, is one which may be considered unlawful, and therefore one for which the prisoner is amenable to the provisions of the Enactment quoted.

The evidence is pertinent to the facts averred in the indictment, and consistent, to the effect that the prisoner (Mahadoo), being one of five or six persons returning from their fields in four carts about dusk on the 17th November 1856, without any apparent reason for so doing, and, according to the statements of those with him, without any excitement from the other persons, the prisoner drew his cart out of the line in which the four carts were proceeding slowly on the left side of the cleared highway leading from Erundole to Bhurgaum, and, starting his bullocks at a quick pace, did drive over a woman named Bhagoo and her granddaughter, so that that woman died within a few hours, and the child, which the Court has this day seen, has the left thigh-bone broken, and apparently rendered useless for life.

The prisoner pleads that he had no intention of driving his cart fast, that his bullocks started, and he did not see the woman. The evidence in Exhibits Nos. 5, 7, and 8, of three of the persons who were with the prisoner at the time, is contradictory to his statement. These men all say the prisoner drew his cart out of the line, and drove fast away, passing the witness Huree, who was at the head of the line, and after having struck down the deceased, whom the witness Vitoba wulud Luximon saw

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after the cart had passed over her, and after the cart had proceeded twenty or thirty cubits from where the prisoner drew his cart off the line, a space sufficient to have enabled the prisoner to regulate his pace if it were true that his bullocks had started at a partridge, as he avers ; but although it must be evident to any one who has ever ridden in a cart that it would be impossible to run against or over a human being, or even an animal as small as a dog, without being sensible of a shock to the vehicle, yet the prisoner is affirmed on evidence to have continued his rapid career until he was out of sight of the witnesses, and it is added, till he reached the town of Bhurgaum, about two miles from the place. The act of continuing to drive on is indicative of the same disregard for the lives and limbs of others as actuated him in the first instance to draw out his cart and proceed rapidly when it had become too dark to see far. The witness Moolkund (No. 9), daughter of the deceased and mother of the child whose thigh-bone is broken, declares that all four carts were going rapidly ; but her evidence is only so far corroborated that on the arrival of the witness Govinda wulud Tima (No. 6) he did not see or hear any carts, and he reached deceased and her daughter before the return of the young man Vitoba (witness No. 5), who affirms he threw himself out of the cart directly he was aware that a person had been run over and returned to assist the deceased, and finally placed her in the cart of the man named Govinda, who conveyed her to her own house, where, according to the evidence of witnesses Nos. 2, 3, and 4, she died the same evening, between 9 and 10 P. M., of the injuries received. The prisoner Mahadoo drove on ; neither he nor his companions stopped to inquire the result of his act. Govinda wulud Luximon affirms he did *warn* the prisoner not to drive fast ; and the same witness has explained that the bullocks were one his and one the property of

the prisoner, one active and the other slow, and after having worked all day in the fields, the Court is of opinion, not likely to start at the flight of a bird. Other witnesses render the prisoner's statement improbable, by their averment that the place whence the cart of prisoner began to go fast was an open plain without trees, and the road clear and wide. Evidence shows that the evening was *not so dark* but that a man, if he would *look*, must have seen that there were persons on the road; and it is affirmed throughout that the carts were following each other on the *left side* and the women walking on the right side, and there was room to pass between them and the leading cart; two witnesses say *hundreds* of people were on the road. With evidence to such facts, it seems to this Court incontrovertibly established that the prisoner did not evince that regard for the lives and limbs of others that a man driving an unwieldy vehicle and unmanageable animals should exercise, and that he did worse than this, in that, while there were people on the road, and more carts than one going, and yet the night sufficiently dark that those in the road might not be aware of their danger, and after those with him were aware that women were in front of the carts, and after warning from his companions, he did drive furiously away; and therefore, though the Court is willing to concede that he had no intention of injuring any person, and also that any person has a right to the use of a public road in such a manner or even to drive at such a pace as he may wish, provided he neither injures or endangers others, still the Court considers that a grave responsibility rests with any one who urges his beasts and vehicle to a pace beyond his control, and especially through a road and at a time peculiarly dangerous to those who are on that road; and as the prisoner is shown to have acted in this grossly careless manner, and to have shown much inhumanity in not slackening his pace even after it is

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presumed he was aware of an injury to some one, whom, if he had looked with due care, he must have seen, and that such responsibility has been incurred by the prisoner, and his act is therefore so far unlawful as to render him amenable to the enactment under which he has been placed on trial. In the absence of definition to this responsibility in the Criminal Code of this Presidency, the Court quotes from Mr. Justice Forbes' Criminal Law Reports, page 263, Volume II.—“A person driving a cart or carriage happeneth to kill. If he saw or had timely notice of the mischief likely to ensue and yet drives on, it will be *murder*, for it is wilfully and deliberately done. If he might have seen the danger and *did* not look before him, it will be *manslaughter*, for want of due circumspection.” The Court holds the second definition is precisely that suited to the case of the prisoner Mahadoo wulud Bhika; and, therefore, being of opinion that the prisoner is convicted of the unintentional commission of culpable homicide, demurring to the accuracy of the definition of the offence as averred in the indictment, as involving terms not found in the Bombay Code, but concurring with the averment as set forth by the facts stated in the charge, the Court finds the prisoner (Mahadoo wulud Bhika) convicted on the evidence of culpable homicide; in having, at about 7 o'clock on the night of Monday, the 17th November 1856, (corresponding with Kartik Wud 5th, Shuké 1778,) within the limits of the Town of Bhurgaum, District Bhurgaum, Province Khandeish, deviated from the road, and, in culpable disregard of injury to others, driven his cart so furiously that a woman named Bhagoo, wife of Sudoo, aged 35, who was walking along the road, with a child three years old, named Pootlee, in her arms, was knocked down on the ground, and so injured by the cart going over her, that she died within two hours afterwards (and the child was severely wounded

in the left thigh), and proceeds to pass the following sentence:—

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You, Mahadoo wulud Bhika, having been convicted, on evidence recorded on this trial, of the unintentional commission of culpable homicide, do undergo twelve (12) months' imprisonment with hard labour, agreeably to the provisions of Regulation XIV. Section I. Clause 3rd, of 1827, with regard to Section XXVII. of the same Regulation.

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* * * * *

The Court begs to draw the attention of the Magistrate to the circumstances of the death of a woman, Bhagoo, wife of Sudoo, at Bhurgaun, from the gross and culpable want of care on the part of Mahadoo wulud Bhika, who has been this day convicted and sentenced to one year's imprisonment; and to observe that, from the accompanying report from the Civil Surgeon, it will be seen that a child of three years old was at the same time so injured that her leg is broken over the knee, and thus deprived of the permanent use of it, but that neither the committing Authority nor the District Police Officer has taken due notice of the injury to the child, by which the prisoner has rendered himself liable to the provisions of Section XXIX. Regulation XIV. of 1827, in addition to the penalty now incurred.

Resolution of the Sudder Foujdaree Adawlut.—The Court are of opinion that it would have been sufficient in this case to have charged the prisoner with “culpable homicide,” of which he should have been convicted; the absence of evil intent being taken into consideration in awarding punishment.

The sentence is mitigated to three months' imprisonment with hard labour, and a fine of Rs. 50, and, in default, three months' additional imprisonment with hard labour. The whole of the fine, or any part of it paid, is to be made over to the family of deceased.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

RUTNAGHERY.

[Case No. 13 of the Calendar of the Rutnagherry Sessions Court for 1857. Committed by the Deputy Magistrate of Rutnagherry, J. H. TROTT, on the 25th April 1857. Tried by the Acting Session Judge, C. J. ERSKINE, on the 25th April 1857. Proceedings submitted for confirmation of the Südder Foujdaree Adawlut.]

Perjury.

Prisoner.—Hurbhut bin Vitulbhut Bidwadkur, Kura-dee Brahmin, aged 45.

Charge.—Perjury; in having, on the 20th April 1857, (Mitee Chuitru Wud 11th, Shuké 1779,) in the Court of Adawlut at Rutnagherry, Talooka Rutnagherry, Rutnagherry Division, Zillah Konkun, wilfully and falsely deposed as follows, on solemn affirmation, before C. J. Erskine, Esquire, Acting Session Judge, during the trial of a case (No. 10 of Rutnagherry General Calendar for 1857) in which the prisoners were charged with forgery: “At about 5 or 6 ‘ghutkas’ A. M. on the day on which the note was executed, Sonoo told me that he (Sonoo) had passed a note for a debt to Bowkur (prisoner No. 4), which was written out by Vitul (prisoner No. 1), and attested by Ziloo and Antoo (prisoners Nos. 2 and 3).” (Regulation XIV. Section XVI. Clause 1st, of 1827.)

Prisoner pleads guilty.

C. J. Erskine,
Acting Session
Judge.

Finding and Sentence by the Sessions Court.—From these it appears that the prisoner formerly deposed before the Police Amuldar of Atchree, and admitted before the First Assistant Magistrate, that he (prisoner) had heard people say that Sonoo Hudkur had passed a note-of-hand for a debt to Bowkur (prisoner No. 4 in Case No. 4 of 1857), and that this note had been written by prisoner No. 1, and attested by prisoners Nos. 2 and 3 (in the same case); also, that he (prisoner) subsequently deposed on solemn affirmation before the Sessions Court

that Sonoo himself had told him the above details regarding the passing of the note to Bowkur.

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RUTNAGHERRY.

Perjury.

* * * * *

In this he confessed that his statement, made before the Police Authorities, was correct, and that he ought to have made a similar statement before the Sessions Court, but that he became confused, and so varied in his statement.

The case for the prosecution is closed, and the prisoner is asked whether he has anything to urge in his defence.

He says that it is true he has been guilty of a crime, but he should be excused this time; that it is his first offence; that he was confused, and that he submits himself to the Sirkar.

On the above evidence and confession of the prisoner, he is convicted of perjury; in having wilfully and falsely deposed, on solemn affirmation, before the Acting Session Judge of the Konkun, on the 20th April 1857, in Case No. 10 of the Rutnagherry General Calendar for 1857, that one Sonoo Hurjee, who was prosecutor in the said case, had informed him (prisoner Hurbhut) that he (Sonoo) had passed a note for a debt to Bowkur (prisoner No. 4), and that this note had been written out by Vitul (prisoner No. 1), and attested by Ziloo and Antoo (prisoners Nos. 2 and 3).

The statement thus made by prisoner related to a point material to the issue of the case above referred to, as the note referred to was one which the prosecutor Sonoo denied that he had passed to the prisoner Raghoo-nath, and which the latter was indicted for having uttered knowing it to be forged.

Under these circumstances, the Court passes the following sentence on the prisoner:—

That you, prisoner Hurbhut bin Vitulbhut, be imprisoned and kept to hard labour for one (1) year; subject to the confirmation of the Judges of the Sudder Fouj-

daree Adawlut. (Regulation XIV. Section XVI. Clause 2nd, of 1827.)

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

AHMEDABAD.

[Petition from Madhowjee Roodurjee to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmedabad, J. W. HADOW, on the 1st April 1857, for Report.]

Disputed Right
of Possession.

Petition from Madhowjee Roodurjee to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Ahmedabad, directing the petitioner to appoint a 'punchayet,' to dispose of the matter in which his property had been forcibly taken away, might be set aside.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

J. W. Hadow,
Magistrate.

Return by the Magistrate.—In return to the within Precept, the Magistrate of Ahmedabad has the honour to report that petitioner complained to the Local Authorities of one Nuvnindh Gunput having interfered with his right of possession of a house, on the door of which, during his absence, the said Nuvnindh Gunput had placed a padlock.

Petitioner's right, according to his showing, consists in his having purchased the house from a woman named Bain, wife of Jootha Jugjeewun, who, it appears, was his mother-in-law; and he further asserts that he had occupied it; that it now contains sundry articles of property belonging to him; and that, on his leaving Gogo for Bhiownuggur, he placed a lock on the door.

The case underwent inquiry before the District Police Amuldar, who reported it to the First Assistant Magis-

trate, Mr. Ritchie. In the absence of evidence on which to pronounce a decision as regards ownership (the claim of the other resting on the ground of the house having been given to him by the same woman, who was his grandmother), the First Assistant Magistrate directed that the disputant be referred to the Civil Court.

Djssatisfied with this order, petitioner appealed to the Magistrate, who, having carefully gone through the papers, directed the District Police Amuldar to make further inquiry as to the party who formerly had possession of the house, to whom the property in the house belonged, and how and by whom it was placed there.

After unnecessary delay, the District Police Amuldar reported that the disputants would not produce any evidence to enable him to furnish the information called for, and requested instructions regarding the disposal of the case.

In transmitting the reply of the District Police Amuldar, the First Assistant Magistrate suggested that the disputants should be directed to remove the padlocks on the doors in the presence of a third party, and then produce their proofs; and the District Police Amuldar was directed by the Magistrate so to effect, if possible, a settlement of the dispute.

Petitioner, it appears, does not agree to this, and wishes to be placed authoritatively in possession of the house. The Magistrate, however, does not consider that he would be justified at present in so doing, and is of opinion that petitioner should be referred to the Civil Court, there to establish his right; and to this effect the District Police Amuldar has been instructed.

The original petition is herewith returned, as requested.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate is to be informed that there was no necessity for him to go into the question of ownership. If it is the case that petitioner exercised the right of possession

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by locking up the house, the party who, in his absence, put a lock over the other should be obliged to remove it, and referred to the Civil Court to establish his claim.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 1 of the Calendar of the Kaira Sessions Court for 1857. Committed by the Assistant Magistrate, G. G. B. COULSON, on the 16th January 1857. Tried by the Session Judge, A. W. WARDEN, on the 11th, 13th, 14th, and 15th April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Wilful Murder. *Prisoner.*—Ramla Nurse, Lohar, aged 26.

Charge.—Wilful murder; in having, on or about Tuesday, 28th October 1856, (corresponding with Ashad Wud 30th, Sumvut 1912,) within the limits of Singodia Hamlet, Barsida Village, Mhonda Talooka, Kaira Zillah, during the night-time, wilfully, and without justifiable or extenuating cause, deprived of life Nana Jewun, Lohar, of the abovementioned village, by beating him on the head with a club until he was dead: prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoner pleads not guilty.

A. B. Warden,
Session Judge.

Finding and Sentence by the Sessions Court.—From the Inquest Report No. 3, which has been proved by the evidence of the witnesses Nos. 1 and 2 (Poonjabhai and Runchore), it appears that the skeleton of a human being was exhumed in the presence of the members of the Inquest; that the head, which had been severed from the body, was wrapped up in a sheet, and round the loins there was a 'dhotur,' and over the body another dhotur.

The evidence of witness No. 4 (Gopalrow), who examined the skeleton in the presence of the Assistant Magistrate, proves that the skeleton was that of a middle-

sized man, and had been in the ground a month or a month and a half. The evidence of witness No. 5 (Baie Jutun) proves that her husband (Nana Jewun) and the prisoner, who is her son-in-law, cultivated a field in partnership, and that they all, including her daughter, a girl 11 years of age, the wife of prisoner, resided together for some time, and a criminal intimacy sprang up between her (the witness) and the prisoner, her son-in-law; at length, one night her husband (Nana Jewun) caught her and the prisoner sleeping with their cots close together (in her deposition before the Magisterial Authorities she deposed that her husband had sometimes before actually caught them having criminal intercourse), at which his anger was aroused, and he ordered prisoner to leave the house, which prisoner did on the following morning. About five days afterwards, on the day of the Dewalee, her husband left home as usual to go and keep watch during the night in the field, which he and prisoner continued to cultivate in partnership; and, as his anger towards prisoner had somewhat subsided, he took with him some rice and 'sero' for the prisoner's evening meal. On the following morning her husband did not make his appearance, but the prisoner, who had not been to the house since he had been turned out, came. She asked him where her husband was. Prisoner appeared surprised at his not having returned, for, he said, he had left the field before him and gone in the direction of the village. After some time she again asked prisoner what had become of her husband, to which prisoner replied that he supposed her husband had gone to Cambay. Her husband, however, never again made his appearance. She, however, thought nothing of it, for her husband had twice before gone to Cambay, once without saying a word to her about it. The evidence of this witness proves that the clothes found buried with the skeleton are the identical ones that were worn by her husband when he left home on the night in

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question ; the brass dish in which he took the food for prisoner was found by her the next day in the field and taken home by her. Prisoner again resided with her, and their criminal intimacy was renewed ; and a few days afterwards they moved into another hut, taking with them her daughter, the prisoner's wife, and they lived together until prisoner was apprehended. The witness No. 6 (Baie Sewlee), the daughter of the aforesaid witness, and wife of the prisoner, a little girl, aged 11 years, ought perhaps, properly speaking, not to have been examined ; but the Court, being extremely anxious to discover whether she could identify the clothes found with the skeleton and alleged to belong to her missing parent, and also to test the credibility of the testimony given by her mother, thought it advisable to take her evidence. This little girl gave her evidence in a very clear, intelligent manner, and corroborated her mother's testimony on all important points. The clothes were not shown to this girl by the Police Amuldar ; they appear to have been shown to her first by the Assistant Magistrate, but she was not asked whether she identified them by any particular mark. On the Court asking her whether any of the clothes were torn, she said, " Yes, and have been mended." On being desired to pick up the one which had been mended, she at once picked up the mended dhotur, although some other clothes had purposely been placed amongst them. The evidence of this witness, and of her mother, Baie Jutun, in the opinion of this Court fully prove the garments found buried with the skeleton to be those worn by Nana Jewun on the night in question. The witness No. 7 (Joita) saw some vultures picking at some bones protruding out of the ground, and he reported to the Mookhee (witness No. 8) what he had seen. The Mookhee, after having repaired to the spot and satisfied himself that what the witness Joita had told him was correct, made a report to the Police Amuldar, and in

the interim endeavoured to find out who had been buried there. It occurred to him that it might be the corpse of Nana Jewun, who had suddenly disappeared from the village a short time before, and whose wife and son-in-law (the prisoner) had given out that he had gone to Cambay; he therefore sent for prisoner, and questioned him as to what had become of Nana Jewun, and desired him to send some one to Cambay to recall Nana. The prisoner, after some hesitation, admitted that Nana Jewun would never return, as he had killed him; the prisoner then consented to point out the spot where he had buried the corpse, and, according to the Mookhee's story, actually pointed out the same spot as that where the witness Joita had discovered the bones; but, unfortunately, witnesses Nos. 9 and 10 (Dhuna and Ghela), who are said to have been present when the prisoner agreed to point out where he had buried the corpse, deny all about it, and the Court suspects that the Mookhee, like the generality of Natives, has exaggerated a little. The probability is that the prisoner, on being shown the bones that were protruding out of the ground, and on the Mookhee insisting on his sending a messenger to Cambay for Nana Jewun, was alarmed, and made a clean breast of it. The evidence of the Police Amuldar, and of the attesting witnesses, proves that the prisoner voluntarily confessed having been concerned in the murder of the deceased Nana Jewun. This confession, although denied by him before this Court, was, however, fully admitted by prisoner before the Superintendent of Police, and also before the Assistant Magistrate. The Superintendent of Police asked him whether he wished to have any alteration made in his statement; he replied that it was quite correct, and did not wish to have any alteration made in it. Before the Assistant Magistrate he pleaded not guilty to the charge, but, when his confession was read out, admitted it was true;

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and when questioned regarding the clothes found buried with the skeleton, admitted that they belonged to Nana Jewun. Prisoner, in denying his confession before this Court, has not asserted that it was extorted from him, but pleads that he was suffering from fever, and does not know what he stated before the Magisterial Authorities. Had the prisoner retracted his confession before the European Officers, viz. the Superintendent of Police and the Assistant Magistrate, it would have been a very different thing; but as he confirmed it, and fully admitted the murder, although he had opportunity afforded him for retracting it, particularly before the Superintendent of Police, who asked him whether he wished to make any alteration, the Court sees no cause for rejecting it. In Regulation XIII. Section XXXVII. Clause 2nd, of 1827, it is laid down that a confession made before any Authority different from that by which the trial is held shall be deemed of weight according to the degree of corroboration it may receive before the Court. Now the prisoner's confession is corroborated by very strong circumstantial evidence. The prisoner, before the skeleton was exhumed, or the earth even disturbed, specified two out of the three garments, viz. a dhotur and a sheet, which, he said, he had buried along with the corpse. When the skeleton was exhumed two dhoturs and a sheet were discovered: as the third garment found was of the same kind as one of those named by the prisoner, he may have forgotten how many dhoturs he had buried with the corpse. The fact of the prisoner's naming two of the garments is, perhaps, the strongest circumstantial evidence that could be obtained; it may be urged that the dhotur and sheet are the garments usually worn by persons of the deceased's caste, and therefore there was nothing remarkable in the prisoner having named them; but then, if the prisoner had not been concerned in the murder, he would not have known whether any or all

of the wearing apparel had been buried with the body. The discovery in the field, the following morning, of the brass vessel in which Nana took some food when he left home with the intention of going to the field, shows that he did go to the field; then, the discovery of the corpse at the distance of 21 paces from the ‘kulee’ pertaining to the field cultivated jointly by prisoner and Nana, and the identification by Nana’s widow and daughter of the garments found buried with the corpse, prove the skeleton to be that of Nana; and the following circumstances, coupled with the prisoners voluntary, although subsequently retracted, confession, leave no doubt of the prisoner’s guilt:—five days before the disappearance of Nana, he (Nana), in consequence of prisoner’s apparent intimacy with his wife, turned prisoner out of his house. Nana’s anger towards prisoner having somewhat abated, he took with him, when he went to his field, some food, which he said was for prisoner. The following morning, instead of Nana, the prisoner, who had not been to the house since his expulsion, except to take the bullock that was tied outside, came to the house, and expressed astonishment at not finding Nana at home, who, he said, had left the field before him with the intention of returning home; then, when further questioned about Nana’s unaccountable absence, gave out that he had gone to Cambay. Two days afterwards, prisoner took up his abode in Nana’s house, and resumed his criminal intimacy with Nana’s widow, evidently aware that there was no chance of Nana’s returning home; and fifteen days afterwards, the prisoner and Nana’s widow and daughter moved into another hut, without assigning any reason for it to witness No. 12 (Joosa), the owner of the hut in which they all had been residing. It is pretty evident that Nana’s widow connived at the murder of her husband. While giving evidence, she exhibited no regret for the loss of her

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husband, and seemed equally indifferent about the prisoner's fate; she, however, evinced no animosity towards prisoner. Prisoner, in his confession, accuses the brother of Nana's widow of having proposed to him the murder of Nana, and of having first commenced the attack on Nana; but whether the brother was concerned in the murder or not, there is no knowing.

The Court, being fully convinced of the prisoner's guilt, finds him guilty of wilful murder; in having, on or about Tuesday, October 28th, 1856, (corresponding with Ashad Wud 30th, Sumvut 1912,) within the limits of Singodia Hamlet, Barsida Village, Mhonda Talooka, during the night-time, wilfully, and without justifiable or extenuating cause, deprived of life Nana Jewun, Lohar, of the abovementioned village, by beating him on the head with a club until he was dead.

After taking into consideration the nature of the offence proved against you, prisoner Ramla Nursee, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXVI. Clause 4th, of 1827, the sentence of the Court is, that you, prisoner Ramla Nursee, be transported beyond the seas for the term of your natural life. This sentence is, however, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Petition from Jugjeewun Nanabhoy to the Sudder Foudaree Adawlut.
Referred for Report to the Magistrate of Surat, G. INVERARITY,
on the 22nd April 1857.]

SURAT.

Prisoner.—Jugjeewun Nanabhoy, Bunya, aged 42.

Forfeiture of Re-
cognisance Bond.

Charge.—Jugjeewun Nanabhoy, aged 42 years, caste Bunya, occupation Hindoo religionist, resident of Syudpoora in Surat, is summoned and informed that whereas he, under date Friday, the 11th July 1856, (corresponding with Sumvut 1912, Ashad Shood 9th,) entered into a recognisance bond that he would not close up a door or take possession of any portion of the house, or a tank in it, pending the trial of the case in the Civil Court, or that he, Jugjeewun Nanabhoy, would forfeit the sum of Rs. 100, to be commuted, in case of non-payment, into imprisonment for three months; still the said Jugjeewun had, on the 13th July 1856, as complained against by Pembace, woman, under date the 21st July 1856, closed a door and taken possession of a portion of the house, and a tank in it, and refused to open the premises or allow the water to be taken from the tank.

Decision by the Deputy Magistrate, confirmed by the Magistrate.—Jugjeewun Nanabhoy having nothing further to urge in his defence, the Deputy Magistrate finds it proved that he closed a door and took possession of a portion of the house, and a tank in it, and refused to open the premises or allow the water to be taken from the tank or well; and, moreover, that he has shown great contempt for the orders he received. The recognisance bond, therefore, entered into by Jugjeewun Nanabhoy, is declared forfeit, and he is directed to pay the amount of the recognisance bond, Rs. 100, or suffer three months' imprisonment. (Regulation XII. Section XXVI. Clause 2nd, of 1827.)

W. M. Kelly,
Deputy Magistrate.
G. Inverarity,
Magistrate.

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SURAT.

Forfeiture of Re-
cognisance Bond.

Petition from Jugjeewun Nanabhoy to the Sudder Foujdaree Adawlut.—[Praying that his case might be inquired into, and that an order, requiring him to pay Rs. 100, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for a report.]

Return by the Magistrate.—The Magistrate of Surat, in returning this Precept duly executed, begs to transmit the English and Guzerathee proceedings in petitioner's case, as comprising the best report that can be furnished in the matter. The depositions taken at the time are likewise forwarded.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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Measures.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Petition from Kasum wulud Ibrahim and Ibrahim wulud Thavur to the Sudder Foujdaree Adawlut. Referred for Report to the Acting Magistrate of Tanna, J. R. MORGAN, on the 22nd April 1857.]

Petition from Kasum wulud Ibrahim and another to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Tanna, directing that the petitioners should not leave their house from sunset to sunrise, might be annulled.]

Precept issued by the Sudder Foujdaree Adawlut to the Acting Magistrate, on the petition of Kasum.—[Calling for a report.]

J. R. Morgan,
Acting Magistrate. *Return by the Acting Magistrate.*—With reference to the petition of Kasum wulud Ibrahim which accompanied this Precept, and which is herewith returned, the Acting Magistrate of Tanna begs to report, that on a complaint having been preferred by the Sir-Karkoon of the Customs Department at Tanna, on the 17th January 1856, that the

petitioner (Kasum) and his father Ibrahim,* in company with others, made attacks on two occasions on the persons of Deorow Husharam and Dajee bin Dowluta, Sepoys on the Customs Establishment stationed at Chendnee Bunder in Tanna, the matter was inquired into by the Foujdar of Tanna, when, the attacks not being proved, but it appearing that they were persons of bad character, the proceedings were submitted to the Superintendent of Police for instructions. The latter Officer forwarded the papers to the Hoozoor Deputy Magistrate, under date the 4th March 1856, in order that precautionary measures might be taken for their good behaviour, stating, at the same time, that instructions had been given to the Foujdar to keep an eye on them.

The Deputy Magistrate, Mr. Showell, after hearing the proceedings, issued orders that, as it appeared that the petitioner Kasum and his father Ibrahim were of bad character, and suspected of being receivers of stolen property, they should, under the provisions of Section XXVII. Clause 2nd, Regulation XII. of 1827, not quit their residences during the night, and should answer the Police when called upon. This restriction was notified to the parties in writing.

On the 5th March 1857 the petitioner Kasum appealed to the Magistrate, Mr. Inverarity, when Mr. Showell's order was upheld on the 7th ultimo.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Magistrate, on the Petition of Ibrahim.—[Calling for a report.]

Return by the Acting Magistrate.—With reference to the petition of Ibrahim Thawur which accompanied this Precept, herewith returned, the Acting Magistrate begs to refer the Court to his report of this day's date, No. 772, on Precept No. 276, dated 22nd ultimo, as the petitioner

* Whose petition accompanied the Court's Precept No. 275, dated 22nd April 1857.—*Note by Acting Magistrate.*

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is the father of Kasum therein named, and both were concerned in the same case.

On the 30th June 1856 the petitioner Ibrahim appealed to the late Magistrate, Mr. Jones, when Mr. Showell's order was upheld on the 14th January 1857.

Resolution of the Sudder Foujdaree Adawlut.—The petitions of the petitioners are rejected.

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Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 9 of the Criminal Return of the Magistrate of Tanna for March 1857. Tried by the Acting Deputy Magistrate, DADORA PANDORUNG, on the 5th, 6th, 7th, 14th, 16th, and 17th March 1856. Reviewed by the Magistrate, J. D. INVERARITY, on the 21st March 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the petitioner, Jamsetjee Dorabjee.]

Petty Assault.

Prisoners.—No. 1, Bhawoo bin Rajbarow Dabara, Muratha, aged 40.

2, Sayud Mahomed wulud Sayed Oosman, Mussulman, aged 22.

3, Vitoo bin Sukojee, Agree, aged 21.

4, Shaik Jafer wulud Shaik Enoos, Mussulman, aged 50.

5, Kajee Amroodin wulud Goolam Mohidin, Mussulman, aged 50.

Charge.—Petty assault (Regulation XIV. Section XXIX. Clause 2nd, of 1827); in-having, on or about 28th February 1857, (corresponding with Mitee Falgoon Shood 4th, Shuké 1778,) in Mahageree, Kusba Tanna, Talooka Salsette, Zillah Tanna, at night at about 10 o'clock, first entered the house in which one Jamsetjee Dorabjee then was, and, having taken him outside, then and there beat him with their hands and fists.

Prisoners plead not guilty.

Finding and Sentence by the Acting Deputy Magistrate.—This case, in which prisoners are charged with having committed only a petty assault, has, notwithstanding, been unusually prolonged, owing chiefly to there being involved in the charge two Policemen of some influence. Prisoner No. 1 is a Sowar of the Tanna Police, and prisoner No. 2 is a Police Havildar; prisoner No. 3 is a mere Police Sepoy, acting under the immediate direction of the first two men. The complainant in this case is a Parsee, who, it appears, has kept a woman in a street in the part of the town called Mahageree, which is inhabited chiefly by respectable Mussulman families. He was often told to remove this woman from their neighbourhood, and his heedlessness in not promptly complying with their wishes has, it is supposed, led to this affray. The complainant (witness No. 1) deposes that on the night of the 28th February last, at about 10 o'clock, when he was in company with his mistress in this house, in which three other women were also then living, prisoner No. 1 came at the door, which had then been chained from inside, and said that he had some message from Bombay to be delivered. Upon this the door was opened, and in rushed prisoners Nos. 1, 2, and 3. After some slight insult to the woman who had come there from Bombay, prisoners Nos. 1 and 2 took hold of Jamsetjee (the complainant, witness No. 1), and brought him outside of the house into the street, and then and there prisoners Nos. 1, 2, and 3 beat him with blows of their hands. An outcry was immediately made, and many people gathered in the street to see what was the matter. In the mean time prisoner No. 4 joined prisoners Nos. 1, 2, and 3 in the affray, and beat Jamsetjee, as would appear from the evidence of witnesses Nos. 1, 2, and 7; the last says that of all he gave him the soundest beating. That prisoners Nos. 1, 2, and 3 entered into the house of the complainant, and, having brought him outside, then and there

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beat him with the blows of their hands, in conjunction with prisoner No. 4, is a fact which appears, with very slight difference indeed, to be borne out by the evidence of witnesses Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, who all depose, except witnesses Nos. 10 and 11, to their having seen prisoners Nos. 1 and 2 beat Jamsetjee. Of all these witnesses the evidence of Sutwajee Havildar (witness No. 7) appears the more to be relied upon; for he distinctly states that, previous to prisoners Nos. 1 and 3 joining prisoner No. 2 in Mahageree that night, they had come to the Police Chowkee No. 1, where he and other Policeman were keeping their watch, and took him to this house, where the assault took place, under the pretence of apprehending gamblers. He was just standing near the door when prisoners Nos. 1, 2, and 3 entered the house, and at their request he afterwards went into it and saw what occurred there, which, in the main, corresponds with what is deposed to by the complainant, and the women (witnesses Nos. 2, 4, 5, and 6), whose evidence might otherwise, from their apparent loose character, have been open to some serious doubt. That witness No. 7 was present at this affray appears quite manifest, from the evidence not only of the complainant and the women, but also from that of witness No. 11, who deposes to his having seen a Police Havildar there. The complainant does not appear to have made his complaint immediately after the assault to the Police Authorities of the town, but he was seen coming to the Police Chowkee crying, and the next morning he went to the Civil Surgeon and informed him that he had been beaten by the Police (see Dr. Ward's evidence, No. 31*).

* *Evidence by the Civil Surgeon.*—A. V. Ward, Civil Surgeon at Tanna, deposes on oath. About a fortnight ago, on Sunday morning, the complainant Jamsetjee, now shown to me, came to me and told me that he had been beaten by the Police the night previous. I examined his body; I saw a small wound on his forehead, which may have been caused either by a fall or by his coming in contact with any pointed

Except the evidence of one or two women, there is nothing against prisoner No. 5, who appears to be a respectable Mussulman Kazee, which can involve him in the guilt. Even the complainant himself affirms that he did not beat him, though he says he encouraged others to do so. Most of other witnesses do not recollect having seen him in the crowd; while witness No. 26, the Mahomedan Law Officer of the Tanna Adawlut, deposed to his having been in his company from 9 till 11 o'clock at night, at the house of the District Deputy Collector, about the time when this affray took place.

In spite of this amount of proof against the three Policemen (prisoners Nos. 1, 2, and 3), and prisoner No. 4, who is a Sepoy attached to the Tanna Adawlut, and who lives in Mahageree, not far from the spot where this assault took place, they now endeavour to prove their innocence by means of *alibi*. Prisoners Nos. 1 and 2 state in their defence, taken on the 7th instant, that on the night mentioned in the charge they left Tanna on some Police duty for Kolset at about 7½ o'clock p. m., and having stayed the whole night at Kolset Bunder, which is about four miles distant, returned the next morning at about 4 a. m. To prove this six witnesses are produced, who are all Policemen then placed under the orders of the Police Havildar (prisoner No. 2), as appears from the reply read and recorded No. 35 from Captain Walker, the Superintendent of Police. The Hoollee holidays were commenced on Monday the 9th instant, and

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thing. There was a slight contusion on his left shoulder-blade, which may have been caused by the blow of a stick, or by his having come in contact with something like a handle of a chair, &c. He complained of having received a blow on the right lower rib. There was no fracture of a rib or any mark of contusion; but as he said he felt great pain there, I ordered one or two dozen of leeches to be applied. The injury which he sustained was not, in my opinion, of a serious nature. Even if the leeches had not been applied, it would have done him no great harm.

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although summonses were issued on the 7th for these witnesses to attend on the 9th, none appeared on that day, and the case was not resumed till the 14th, when the witnesses attended. They all depose to their having been in company with prisoners Nos. 1 and 2 on the night of the 28th February last at Kolset, and relate all the details of the circumstances which occurred that night between 7 P. M. till 4 A. M. so exactly, that the very fact of their recollecting them after nearly a fortnight renders it liable to a great doubt as to the veracity of what they state, and excites a great deal of suspicion that there was a combination formed among these Policemen, and that, to all appearance, they perjured themselves to screen their immediate superiors, prisoners Nos. 1 and 3. When these witnesses were interrogated as to how they recollected the exact date, they all stated, "Because it was the last day of the month," but the very fact of their recollecting that it was the *last day* of the month appears to be very dubious indeed.

It will also be noticed, which is very curious indeed, that all the prisoners, viz. prisoners Nos. 1, 2, 3, and 4, were engaged in some other duty in another place precisely at 7½ o'clock that night.

Captain Walker, in his reply to a reference made to him on the subject, does not state whether prisoners Nos. 1 and 2, and the four Policemen who are stated to have accompanied them from Tanna, were on duty at Tanna or at Kolset that night, and, if the latter, at what hour they left Tanna; indeed, prisoner No. 2 distinctly states that he had no orders from Captain Walker to go to Kolset that night, for, if they had to go on duty to Kolset that night, the Acting Deputy Magistrate considers that it was necessary for them to have obtained the permission of Captain Walker, which does not appear to have been the case; and even supposing them to have gone to Kolset without such permission, they had still ample time to

go to and return from Kolset between 11 or 12 and 4 A. M. Indeed, witness No. 20 (Ragho bin Vitoo Puwar), deposes that it was at 4 A. M., just about the dawn, that they all set out from Kolset for Tanna, while the others state that they reached Tanna at 4. From all these points it cannot be clearly established that prisoners Nos. 1 and 2 were not in Tanna on the night of the 28th February last, about the hour when the assault took place. In order further to test the truth of the *alibi* advanced by prisoners Nos. 1, 2, and 3 in their defence, the Acting Deputy Magistrate took down the evidence of the other Policemen who had seen prisoners Nos. 1 and 3 come to the Police Chowkee, No. 1 to take Sutwajee Havildar with them that night at about 10, under the pretence of apprehending gamblers; and they all state that they had seen prisoner No. 1 at the Police Chowkee at about 10 that night, before Sutwajee and prisoner No. 1 left the Chowkee.

Prisoner No. 3 states, in his defence, that on the night of the 28th February last he was engaged in moving the punka at the dinner-table of Captain Walker till 10, and then went down stairs and there waited for the butler till 12, when he wrote something for him in Murathee and then went home. But his witnesses do not remember the exact date; neither does the butler, whose evidence is recorded No. 23, state that he wrote anything for him. Captain Walker, in his reply, dated to-day, states that prisoner No. 3 was at his bungalow that night, but between what hours he does not mention.

The two witnesses given by prisoner No. 4 do not recollect on what night this assault took place, and where prisoner No. 4 was on that night.

Just when the whole proceedings in this case were drawn to a close, prisoner No. 2 represented that he had other witnesses to give; but the Acting Deputy Magistrate did not think himself warranted to procrastinate the case any longer.

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Under the above consideration of the case, the Acting Deputy Magistrate has no hesitation to convict prisoners Nos. 1, 2, 3, and 4. They are therefore convicted, and found guilty of the charge preferred against them.

Although the offence with which the prisoners are charged is in itself of a trivial nature, and would have been viewed in that light had it been committed by parties other than policemen, yet, when the manner of its perpetration, and the position of the offenders, as in the present case, are taken into consideration, it assumes the character of a serious nature. Every Policeman is expected to know that it is his duty to keep the peace, and not to be the author of its disturbance himself, whether in his private or public capacity.

Prisoners Nos. 1, 2, and 3 were, just in the trial of a case which preceded this, found putting handcuffs on persons whom they had then suspected of having gambled, and a strong warning was then given by the Acting Deputy Magistrate against their taking the law into their own hands, and their conduct was brought to the notice of the Superintendent of Police.

Prisoner No. 5 is acquitted for want of proof.

Prisoners Nos. 1 and 2 are sentenced each to undergo four (4) months' imprisonment with hard labour, under Regulation XIV. Section XXIX. Clause 2nd, of 1827.

Prisoners Nos. 3 and 4 are sentenced each to undergo three (3) months' imprisonment with hard labour, under Regulation XIV. Section XXIX. Clause 2nd, of 1827.

The sentence against prisoners Nos. 1 and 2 is subject to the confirmation of the Magistrate.

J. D. Inverarity,
Magistrate.

Confirmation by the Magistrate.—Read the whole of the proceedings in this case. The charge is one of petty assault, brought against three members of the Police, a Sepoy of the Tanna Adawlut, and a Kazee resident in Tanna. The latter proved his innocence before the Deputy Magistrate, the remaining four were convicted of

the assault and sentenced, the first two to four months' imprisonment with hard labour, subject to confirmation, the last two to three months' imprisonment with hard labour. The sentence is now appealed against by all four convicts. The evidence in this case is of the most contradictory character: complainant and his party (witnesses Nos. 1, 2, 4, 5, and 6) prove too much, for it is clearly shown that prisoner No. 5 was neither present, as affirmed by the complainant, nor engaged in beating the complainant, as affirmed by witness No. 5 (Mariam). The prisoners Nos. 1, 2, 3, and 4 fail in the *alibi* they have set up, and in support of which their fellow Sepoys (witnesses Nos. 17 to 23) give evidence. This defence is totally unsupported by the independent testimony of witnesses Nos. 24, 25, and 26, while it is plainly contradicted by the evidence of the witnesses Nos. 28, 29, 30, 7, 8, 9, and 3.

There seems to be no reason for disbelieving what these seven witnesses (especially No. 7, Sutwa Havildar) assert. From these it may be gathered that the existence of gambling was suspected in a house where the complainant (Jamsetjee) kept his mistress. The Police Sepoys (prisoners Nos. 1, 2, and 3), not in their Police dress, gained admittance into that house, found no confirmation of their suspicions, but got into a disreputable brawl with the complainant (Jamsetjee), whom they pulled out into the street, and cuffed and struck with their hands and fists, in which employment they were joined by the prisoner No. 4 (Shaik Jaffer), a Sepoy of the Adawlut. The Civil Surgeon, Dr. Ward, shows that the injuries sustained by the complainant were not of a serious nature, though there is an evident inclination on the complainant's part to make the most of them.

Looking upon this as a trivial assault, not requiring the severe punishment awarded by the Deputy Magistrate, I mitigate the sentences passed by that Officer

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(Regulation XII. Section III. Clause 3rd, of 1827), and adjudge that each of the four prisoners, No. 1 (Bhawoo bin Rajbarow Dabara), No. 2 (Sayud Mahomed wulud Sayud Oosman), No. 3 (Vitoo bin Sakojee), and No. 4 (Shaik Jafer wulud Shaik Enoos), pay a fine of Rs. 15, commutable to one month's imprisonment. (Regulation XIV. Section XXIX. Clause.2nd, of 1827.)

The prisoners who are present, Nos. 1 and 2, are informed accordingly, and warrants to the same effect are addressed to the Session Judge, in whose custody are the prisoners Nos. 3 and 4.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Harrison.—This petitioner prays that the parties, Policemen, who were convicted of assaulting him, may receive more severe punishment than the Magistrate has inflicted.

The Magistrate has mitigated the sentence passed by his Deputy, and I think the fine of Rs. 15 does not adequately mark the guilt of the prisoners, who, as Policemen, broke the peace which they are paid for preserving. The mitigation of the sentence was within the Magistrate's discretion, and the petition must be rejected. But the conduct of these Policemen appears to me to have been so bad that I would lay the case before Government, in order that, if this view is concurred in, they may be dismissed from the Police Force.

R. Keays, Puisne
Judge.

Minute by Mr. R. Keays.—This case has been called for on the petition of the complainant, Jamsetjee Dorabjee, who is dissatisfied with the measure of punishment meted out to the prisoners who have been convicted of having assaulted him.

The assault is, in my opinion, clearly proved. The prisoners are, three of them, Policemen, the fourth is a Sepoy on the establishment of the Judge of Tanna. The Magistrate reduced the punishment awarded by the Deputy Magistrate, viz. prisoners Nos. 1 and 2 to four months' imprisonment with hard labour, prisoners Nos. 3 and 4

to three months' imprisonment with hard labour, to a fine of Rs. 15 from each of the prisoners.

I think it is much to be regretted that the Magistrate interfered with the sentence of the Deputy Magistrate. The manner in which the offence was perpetrated, and the position of the parties, gave the crime a much more serious aspect, in my opinion, than a mere trivial assault; and I think Jamsetjee has reasonable ground for complaint.

I would hand the case up for the consideration of Government, and suggest that these Policemen should be discharged, as unfit persons to be entrusted with Police duties. I do not see how we can interfere further in the matter.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected, and the case to be laid before Government with reference to the conduct of the Policemen.

Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

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[Case No. 5 of the Calendar of the Khandeish Sessions Court for 1857. Committed by the Deputy Magistrate, RAM NAID, on the 8th January 1857. Tried by the Session Judge, A. ST. JOHN RICHARDSON, on the 7th, 9th, 10th, 12th, 16th, 25th, and 27th February 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Shreeput Vitul.]

Prisoners.—No. 1, Baboojee wulud Shaik Mitoo, Mussulman, aged 40.
2, Onkar wulud Kisore, Wanee, aged 25.
3, Jumna, Widow of Vitoba, Wanee, aged 40.
4, Gheerdhur wulud Még'ha, Wanee, aged 42.
5, Shreeput Vitul; Brahmin, aged 28.

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Charge.—Against prisoners Nos. 1, 2, and 3, gang robbery by night, with force; in having, on or about the night of Saturday, the 22nd November 1856, (corresponding with Kartik Wud 10th, Shuké 1778,) in the Village of Pimprala, District Nusseerabad, Province Khandeish, entered the house of Toolsa, widow of Jykisun Marwaree, by making a hole in the wall which separates it from the house of the prisoner No. 3 (Jumna, widow of Vitoba), so as to gain admission into a room; and also by making another hole into the floor of the said prisoner's house, and undermining the said partition-wall so as to gain admission into a subterraneous cell, and stolen from the said room and cell gold and silver ornaments and ready money valued at Rs. 8,700, the property of the said Toolsa; thereby rendering themselves amenable to the provisions of Clauses 1st and 3rd, Section XXXVI. Regulation XIV. of 1827.

Against prisoners Nos. 4 and 5, having received property, knowing or having evident grounds for suspecting the same to have been stolen; in having received, some time between Saturday, 22nd November 1856, (corresponding with Kartik Wud 10th, Shuké 1778,) and Tuesday, the 25th November 1856, (corresponding with Kartik Wud 13th, Shuké 1778,) at the town of Erundole, District Erundole, Province Khandeish, a portion of the property, consisting of gold and silver ornaments and ready money, stolen from the house of Toolsa, widow of Jykisun; thereby rendering themselves amenable to the provisions of Clause 1st, Section XLI. Regulation XIV. of 1827.

Prisoners plead not guilty.

A. St. John Ri-
chardson, Session
Judge.

Finding and Sentence by the Sessions Court.—The Court has to record some grave objections to this prosecution: first, the members of the family, in whose house the robbery is supposed to have occurred, are not one of those put into the witness box, and the Court,

with some difficulty, procured the attendance this day of a youth named Chutrobhooj, a nephew of the widow whose house is supposed to have been entered, and he, though present on the night before the robbery was discovered, was not able to give any particulars of the matter, nor even to name the person who first discovered that any such offence had been committed.

The statements of prisoners No. 1 (Baboojee wulud Shaik Mitoo), and No. 2 (Onkar wulud Kisore), and No. 3 (Jumna, widow of Vitoba), were taken on the 1st and 4th of December 1856, before any evidence whatever was on record against them, and after they had been arrested on suspicion on 29th November 1856; the evidence of the Policemen before whom such articles as are in Court were produced having been taken before the nearest District Police Officer on the 5th, 7th, and 11th of December; and the rest of the witnesses, of whom twenty have been examined before the Sessions Court on this trial, having been either adduced before the committing Magistrate on the 7th January 1857, or at the request of the Police writer who has attended on behalf of the prosecutor since the trial was commenced. The Court finds the amount of property said to have been stolen, as stated by the witness, by no means obtained upon a clear method of calculation. He affirms Rs. 1,500 in cash were stolen; and, also, certain pots which had been full of gold and silver ornaments were found, on 25th November 1856, Tuesday, (corresponding to Kartik Wud 13th,) to be empty; but neither he nor the other two agents of the widow Toolsa, widow of Jyakisun, can affirm the contents or the value on the appearance of the articles stolen, and which are entered in the indictment as worth Rs. 8,700. The statements made by the prisoners before the District Police Officer at Erundole and at Nusseerabad describe the property taken by them to have been divided into four or five shares, of which one share,

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that belonging to prisoner No. 1 (Baboojee), being that discovered in the lands of Ghosley in the presence of certain of the Bheel Corps Policemen, is valued at Rs. 549-8-0. Either, therefore, if the prisoners are to be believed, the whole loss amounted at the utmost calculation to Rs. 2,247-8-0 only, or the statements made by the prisoners on 1st December are not substantiated by the result of the search made by the Police; and in either case the prosecutrix's agents have grossly overrated the loss. The Court observes that every such exaggerated return has a tendency to throw blame on the judicial administration of the Province in the Police and Magisterial Departments; for, if the prosecutor's statement is correct, the prisoners having confessed (though the Court has to observe that there is not on record any reason for their having done so), the Police believed their statements to be true, and yet, having the prosecutrix's amount of loss before them, must have relaxed their efforts before one-fourth of the property was discovered.

In this instance the total amounts to Rs. 2,366-4-0, including an item of Rs. 425 found in the house of prisoner No. 2 (Onkar), for which evidence, recorded Nos. 11 and 18, shows that prisoner No. 4 (Gheerdhur wulud Méggha) whose box that found in the house of the prisoner No. 2 (Onkar) at Erundole is alleged to be, may have been possessed of as much cash as the sum found, and therefore should be entitled to the benefit of that doubt, especially as the two strange uncurrent coins, one a Shah Jain, and the other a square coin of the period of Akbar Shah, and known as a Kullami rupee, from its containing the name of God in the Arabic character, are not so peculiar that other current coins should be recognised by that alone among them. The evidence, too, by which the prosecutor claims the coin, because it was an object of worship to the agent Krishnajeet Dyaram (witness No. 5), and because it was, in the days of the late proprietor,

- Jyjisun, according to the witness No. 4, used as a charm for barren women, is met by evidence quite as much trustworthy in the statements of witnesses summoned before this Court, and examined by the committing Magistrate on 7th January 1857, long after, according to the Police confessions, the part which each of the prisoners at the bar took was publicly proclaimed in the Police Court on 1st and 4th December; but these statements, though affirmed by the attesting witnesses Nos. 33 and 34 (and who state that none of the prisoners were either intoxicated or in any way out of their ordinary state of mind), are denied by the prisoners before the committing Magistrate and the Sessions Court, one under the plea of drunkenness, and the others of ill-treatment. As these pleas are not substantiated, the Court confines its duty to the observations above made as to the facts of the prisoner's examinations having preceded that of any witness for the prosecution. The charge of robbery rests on the evidence in the statements of the wife and servants of Gheerdhur (prisoner No. 4), and their evidence (Nos. 7, 8, 9, and 10) was not taken till 7th January 1857, and consists in a story that prisoner No. 1 (Baboojee), who is the servant of prisoner No. 2 (Onkar), who is a cousin and resides together with prisoner No. 4 (Gheerdhur wulud Mégha), did, in company with prisoners Nos. 2 and 4 (Onkar and Gheerdhur), go to the house of the prisoner No. 3 (Jumna), whose house adjoins that of the prosecutrix, and by a communication with that house the cellar whence the articles are alleged to have been stolen was entered; and they brought back a bundle, which, according to the evidence of witness No. 7, was left open for some days in an upper room in her husband's house, and then buried in the house of Gheerdhur (prisoner No. 4), on information received that the Police were watching the house. The contents of that bundle, a sack, and in another cloth, as brought by the prisoners at night, were

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delivered to the prisoner No. 5 (Shreeput Vitul) and by him shown to the Police. So that so far are detailed circumstances on which it is presumed to convict the prisoners Nos. 1, 2, and 3 (Baboojee, Onkar, and Jumna) of robbery; but it is not affirmed that either of the children who went, as they allege, with prisoners Nos. 1 and 2 (Baboojee and Onkar) to the house of prisoner No. 3, did see the articles accurately or know what they were, and the woman Soorta is supposed to have asked the boy Mookia (witness No. 9) what the bundle contained. Against the third prisoner (Jumna) is the fact that the hole was made, and the earth from it thrown into her house. Relative to this there is some strange evidence in the deposition of the Police Patel (Hoolsing wulud Luxumon, witness No. 22), and he, for the first time examined on this subject before the Sessions Court, affirms that he was informed, about 7½ A. M. some two or three months ago, probably, as the witness No. 4 is accurate as to dates, on Tuesday 25th November 1856, and saw a hole made into the cellar, and one into or rather out of the room above; that no footmarks could be traced up or down either passage, because there were steps into the cellar, and other persons had gone over the ground before him; but most extraordinary of all is the statement that all the earth had fallen into the house of prisoner No. 3 (Jumna), and the cellar had been swept clean, evidently a strong proof that no circumstances had been omitted to throw suspicion on the woman Jumna, and itself strongly indicative of the idea that, instead of her being necessarily cognisant of the robbery, the entrance *was made from the house* of the woman Toolsa, and all signs of the last bricks and earth falling into the cellar carefully removed. Besides, there is no evidence to show the state of the cellar and of the room above when first discovered; and though the key is stated to have been kept by the woman Toolsa, it is on evidence that a girl of fifteen or

sixteen years was arrested and kept in confinement, as the witness No. 17, a Policeman, affirms, during the whole night, with male prisoners it is presumed, there being no separate accommodation for females; while, according to the evidence of the Patel (witness No. 22), she was released on the evening of the 25th November, after having been detained in a Wania's house, and that she, being the daughter of prisoner No. 3 (Jumna), was also the wife of a nephew of the prosecutrix (Toolsa), with whom she was residing at the time, and to whose house she was allowed to return; clearly showing that no one of the persons (for this girl and her mother were alone in the one house, and the prosecutrix and a few children and another woman in the other) in either house was believed to be aware that the process of driving two holes through a two-feet thick wall had attracted the slightest attention! The last witness (Chutrobhooj), who was living in the prosecutrix's house, affirms that, after the robbery had been discovered, the prisoner No. 3 (Jumna) called to him from her house and pointed out two brass pots, one merely a water vessel, and the other marked with some characters intimating it to be the property of Chumia Dhobe, asking if they belonged to his house; and of these pots it is not on evidence when they became an object of suspicion to the Police, if they were so little an object of dread to the woman of the house from which entrance was effected. There is again one other fact against her, the fact of a small piece of rag having been found near the broken wall, and the corresponding piece wrapped round the mouth of the earthen jar found in the Ghosley wastes. This being the total of the evidence for the charge of robbery, independent of the fact of part of the property being shown, the Court proceeds to consider how far the evidence, entered under Nos. 12, 13, 14, 15, 17, 19, 20, and 21, supports the averments in the indictment; and from this evidence it is recorded that

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prisoner No. 1 (Baboojee wulud Shaik Mitto) did make some confession before Captain Brier, Assistant to the Superintendent of Police, and corroborated that confession, though now denied, by the discovery of certain articles said to have been those stolen from the house of Jykisun, and among them very few are recognised by the witnesses Nos. 2, 20, and 21. The fact of the discovery of certain articles and cash, valued at Rs. 549-8-0, is affirmed by the Police in exhibit Nos. 12, 13, and 17; and the fact of the discovery of other articles in a river near Erundole by prisoner No. 5 (Shreeput Vitul), valued at Rs. 1,389-12-0, is affirmed by the statements of the Policemen (witnesses Nos. 14 and 15). The Court sees no reason to doubt the evidence of the Police. If a Policeman is always to be regarded with suspicion, and his evidence rejected as necessarily unworthy by the Judicial tribunals, some other method than a corps of Police must be adopted to obtain irreproachable evidence. The Court, therefore, considers the fact of the discovery of these articles partly by prisoner No. 5 (Shreeput Vitul), as established by the evidence, and finding that each lot contained some articles, though only one is recognised by witness No. 5 (Krishnajeet Dyaram) in direct terms, and all the others, with the exception of those old silver ornaments bound with strings, he affirms generally to be the property of his employer Jykisun. The witness No. 6, also an agent of Jykisun, affirms he can recognise one pair of heavy silver chain leg ornaments among those found in the Ghosley jungle; also, by the evidence of a goldsmith (witness No. 20), who recognises, as having been in the habit of making ornaments for the prosecutrix for the last ten or twelve years, a pair of chains in silver for the legs, and other articles in silver rather peculiar, and also rings, &c. including a pair of bracelets of metal plated with silver. The evidence of this witness is objected to in the prisoner's defence on the score of his having been

shown the articles produced in the Court by the prosecutrix's agent, Rowjee Dinkur, when they were before the Deputy Magistrate, as he affirms, at Mr. Ram Naid's house, a statement not in the Court's opinion invalidating otherwise in all respects trustworthy evidence. The Court, then, finds that part of the articles found in the Ghosley waste by the Police, at the suggestion of prisoner No. 1 (Baboojee), is recognised, by the evidence of witnesses Nos. 5, 6, 20, and 21, to be articles which were the property of the prosecutrix, and accordingly those which were, it is presumed, stolen on the night of Saturday, the 22nd November 1856, from the house of Jykisun at Pimprala, that date being, the Court observes, determined by no evidence now on record but by the statements taken before the Police which are denied by the prisoners, but proved to have been so given by the evidence Nos. 33 and 34.

The articles shown to have been discovered by prisoner No. 5 (Shreeput Vitul) are not shown on evidence to contain any articles found to be the property of prosecutrix, according to the evidence No. 15. The prisoner No. 2 (Onkar), when arrested, produced a box, said by him to be the property of prisoner No. 4 (Gheerdhur), the possession of the money found in which, as well as the venetians, coins, and beads, the Court finds, on evidence Nos. 7, 11, 18, 29, and 32, to be the property of prisoner No. 4 (Gheerdhur wulud Mégha); so that, independent of the great suspicion which attaches to the prisoners Nos. 2 and 3 from the evidence of the woman Soorta (witness No. 7), whose evidence should perhaps strictly not be received as to the proprietary right of her husband to the articles found with him, although if it be received as against the prisoners it must be received entire, and though she is unable or unwilling to affirm that she is cognisant of the contents of the bundle which she deposes was brought by the prisoner No. 1 (Baboojee)

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and removed for four days after, and before the house was searched by the prisoner No. 5 (Shreeput Vitul), yet her account is corroborative of the facts abovementioned, and the Court accordingly finds the prisoner No. 1 (Baboojee wulud Shaik Mitoo) guilty; and he is convicted, on the evidence of his own act, as shown by the evidence recorded in statements marked Nos. 12, 13, and 17, and the production of certain articles of which part are proved to have been stolen from the house of one Jykisun at Pimprala, of robbery by night, with force; in having, on or about the night of Saturday, the 22nd November 1856, corresponding with Kartik Wud 10th, Shuké 1778,) in the village of Pimprala, District Nusseerabad, Province Khandeish, entered the house of Toolsa, widow of Jykisun Marwaree, by making a hole in the wall which separates it from the house of the prisoner No. 3 (Jumna, widow of Vitoba), so as to gain admission into a room, and also by making another hole into the floor of the said prisoner's house and undermining the said partition wall, so as to gain admission into a subterraneous cell, and stolen from the said room and cell gold and silver ornaments and ready money, valued at Rs. 1,939-4-0, the property of the said Toolsa: and the prisoner No. 5 (Shreeput Vitul) is convicted, on the evidence Nos. 7, 14, and 15, of having in his possession goods, knowing or having evident grounds for believing the same to have been stolen; in having received, some time between Saturday, the 22nd November 1856, (corresponding with Kartik Wud 10th, Shuké 1778), and Tuesday, the 25th November 1856, (corresponding with Kartik Wud 13th, Shuké 1778,) at the town of Erundole, District Erundole, Province Khandeish, a portion of the property, consisting of gold and silver ornaments and ready money, stolen from the house of Toolsa (widow of Jykisun); and therefore the Court proceeds to pass the following sentences on each of them.

The prisoner No. 3 (Jumna, widow of Vitoba) is acquitted, and discharged from custody.

The prisoners No. 2 (Onkar wulud Kisore) and No. 4 (Gheerdhur wulud Méggha), though, from the evidence this day adduced, objects of very strong suspicion, are not convicted, the one of robbery, or the other of having in his possession goods knowing the same to have been stolen, and are therefore acquitted of those charges, and are directed to be returned to the Magistrate to take such precautionary measures as he may deem the circumstances against them demand.

You, Baboojee wulud Shaik Mitoo, having been convicted, on evidence this day recorded, of robbery by night, with force, do undergo five (5) years' imprisonment with hard labour, agreeably to the provisions of Regulation XIV. of 1827, Section XXXVII. Clauses 1st and 3rd.

And you, Shreeput Vitul, having been convicted of receiving property, knowing or having evident grounds for suspecting the same to have been stolen, do undergo five (5) years' imprisonment with hard labour, under the provisions of Regulation XIV. of 1827, Section XLI. Clause 1st.

* * * * *

The Court begs to draw the attention of the Magistrate to the vast discrepancy between the amount entered in the indictment, viz. Rs. 8,700, as removed from the house of the prosecutrix, and the amount recovered, which, including a sum of Rs. 427 found in the house of the prisoner No. 2 (Onkar wulud Kisore), and which evidence on that trial adduced showed to be the property of the prisoner No. 4 (Gheerdhur wulud Méggha), and which, with the box in which the coins were placed, should be restored to him,—even including that sum only Rs. 2,366-4-0 were recovered, and after deducting Rs. 427, the balance Rs. 1,939-4-0 worth of ornaments only has been found. The returns annually made to Govern-

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ment, it is almost needless to observe, give an erroneous impression of the administration of the law in this province, while so much is permitted to be entered as loss without the complainants being able to substantiate the amount, or even, as in this case, to show that such articles, either by name, weight, or number, were in their possession previous to the robbery. Prosecutrix's agents have proved but a few articles as recognised by her witnesses, and those few articles have been returned by the Court, on receipt, to Rowjee Dinkur; the bulk of the property, shown by the Police to have been discovered through the acknowledgment of the convicts Baboojee wulud Shaik Mitoo and Shreeput Vitul, although containing the few articles restored, has been returned, to allow of a public notification for the owner or owners to substantiate their claims. The Court also begs to observe that the prisoners were examined before any evidence was recorded for the prosecution; that the chief witnesses to the indictment for robbery were not examined till 7th January 1857, though the prisoners' statements are dated 1st, 4th, and 11th December 1856.

W. H. Harrison,
Puisne Judge.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—This case is a very unsatisfactory one. The charge ought to have been robbery, not gang robbery, for it is not alleged in it that more than four persons were concerned, and only three were indicted as the robbers. The amount stolen is set down at Rs. 8,700. There is no proof of any such robbery having taken place, and indeed it is difficult, from the evidence, to fix the date of any robbery at all. Let it be granted, however, that a robbery did occur secretly at about the date set forth in the charge; there is no account of the circumstances of the discovery, or of the state of the premises at the time the alarm was given. It is not to the credit of the committing Magistrate that such a vague and grossly exaggerated charge should have been sent up for trial,

instead of the accusation being sifted and reduced to its proper limits.

The prisoners seem to have been suspected ; and confessions are said to have been obtained from three of them, which were denied in the Sessions Court, where they were recorded before they were proved.

In the case of the petitioner Shreeput, there is for his conviction, as the Session Judge states, the evidence of two Police Peons (witnesses Nos. 14 and 15) that he pointed out some property hidden which has been recognised as part of that stolen from the complainant. There is no independent testimony to this ; for, although witness No. 7 says that Shreeput brought a bundle to the house of her husband (who was acquitted) containing ornaments, it is not shown that these ornaments were part of the stolen property. This evidence is too scanty to be relied upon for the petitioner's conviction, and he should be acquitted.

The first prisoner (Baboojee) has not, it appears, appealed, and it may be concluded that he admits the justice of his sentence.

The Session Judge has admitted much hearsay in the record of this trial, and his orders regarding the disposal of the property before the Court are inconsistent with each other. He has rightly noticed to the Magistrate the exaggeration in the value of the property alleged to have been stolen, as set forth in the charge.

Minute by Mr. Keays.—Although the evidence recorded in this case is not sufficient to prove that the property which the prisoner is proved to have pointed out to the Police concealed in the river Jhree was really the property of the complainant, I think that the fact of the concealment is of itself sufficiently indicative of a guilty knowledge on his part to justify the conviction. The prisoner's statement is, that he saw Onkar, one of the prisoners who has been acquitted, burying it, but of this he has no

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W. E. Frere,
Puisne Judge.

evidence. He did not tell the Police that he was about to show them the property Onkar had concealed, and I can therefore place no dependence on his defence, and I would reject the petition.

Resolution of the Sudder Foujdaree Adawlut.--Referred to a third Judge on the conviction.

Minute by Mr. Frere.--The Session Judge says, page 151, that he convicts Shreeput Vitul, "on the evidence Nos. 7, 14, and 15, of having in his possession goods, knowing or having evident grounds for believing the same to have been stolen from the house of Toolsa, widow of Jykisun," though, at page 147, he says, "the articles shown to have been discovered by the prisoner Shreeput Vitul are not shown on evidence to contain any articles found to be the property of prosecutrix." I think, then, on the Session Judge's own finding, it is very clear that the property pointed out by Shreeput Vitul was not proved to be stolen property, and the charge against him would fail on that ground alone. But beyond this, the evidence of the witness No. 7 must be set aside, for she is Soorta, wife of the prisoner Gheerdhur, and ought not to have been examined. The other witnesses, Yesoo (No. 14) and Gunput (No. 15), depose to Shreeput's having on the second day (he had denied it on the first) gone out into the river, and in the sand shown two bundles, which were concealed near the village wall; but this evidence is no further proof of the articles having been in Shreeput's possession, or of his knowledge that they were stolen, than his statement No. 26 is, in which he denies possession of the property, but admits his knowledge of where it was hid from having seen Onkar conceal it. All that the witnesses Yesoo and Gunput say is, that Shreeput promised to show the one the things which were concealed near the village wall, and the other the articles which he hid in the river; but, seeing that his confession was not that he

had hid the things in the river, the Session Judge should have been very careful in ascertaining from Gunput (witness No. 15) that Shreeput did admit that he had hid them. But as it appears from the Session Judge's record that Gunput was very much confused in identifying the articles (for that is what I presume the Session Judge means by "affirms" the articles), I should not be inclined to place much reliance on his memory, and to believe, on his assertion alone, and in opposition to Yesoo's evidence and the prisoner's own confession, that he had admitted concealing the articles. In addition to these two witnesses, Mookia (witness No. 9) and Kumal (witness No. 17) also mention Shreeput, the former as taking a bundle and concealing it in a bag of wheat, and the latter as confessing to having, with others, committed the robbery; but as the Session Judge does not notice their evidence, I suppose he placed no reliance on it as affecting Shreeput. Since the property Shreeput pointed out is not proved to have been stolen nor ever to have been in his possession, I do not think the conviction will stand, and he must be acquitted and discharged.

Final Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, and the prisoner to be discharged.

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Present, { WILLIAM EDWARD FRERE,
WILLIAM HENRY HARRISON, } Puisne Judges.
ROBERT KEAYS,

[Case No. 82 of the Calendar of the Rutnagherry Sessions Court for 1856. Committed by the Acting First Assistant Magistrate, W. D'OYLY, on the 15th December 1856. Tried by the Acting Session Judge of the Konkun, C. J. ERSKINE, on the 4th, 14th, and 15th April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder.

Prisoner.—Mange oorff Bhagirthee kom Krishna, Muratha, aged 28.

Charge.—Murder (Regulation XIV. Section XXVI. Clause 1st, of 1827); in having, about the 26th October 1856, (Mitee Ashwin Wud 13th, Shuké 1778,) in the Jungle of Tikan, called Dhuwan Wutar, in the village of Wadachapat, Talooka Malwan, Rutnagherry Division, Zillah Konkun, wilfully, and without justifiable or extenuating cause, strangled or otherwise killed her newly-born child.

C. J. Erskine,
Acting Session
Judge.

Finding and Sentence by the Sessions Court.—The prisoner is accused of having murdered her illegitimate child, and before this Court she has pleaded not guilty.

It is in evidence that, in the beginning of October last (1856), this Mange (whose husband had been dead for not less than four or five years) was found to be with child. She was warned by the Foujdar of the village (Wadachapat) that she must do nothing to bring on a miscarriage or to destroy her infant, and she was required to furnish security to this effect. Her son-in-law, Raghoosawunt, was her security. A further written warning was subsequently communicated to her from the Police Kamgar of Malwan (witness No. 7), to whom the facts of the case were reported.

Notwithstanding these precautions, it became apparent, in less than a month, that the prisoner (Mange) was no longer pregnant. In a report, dated the 20th

November, the Foujdar alleged that he had brought this to notice on the 5th idem; but there is no proof that he did so. It was consequently not until the 26th November that a Havildar of Police (witness No. 9), with a Sepoy (witness No. 10), was sent from Malwan to Wadachapat to make an inquiry on the spot.

This inquiry was in progress from 26th to the 29th of November. On the latter date the Police returned to Malwan with the persons whom they had apprehended—the witness and the corpse of an infant, believed to be the one of whom the prisoner (Mange) had been delivered.

When the body reached Malwan, the Police Kamgar at once informed the Mamlutdar, and also appointed a Jury to hold an Inquest, which was done the same evening; and the Jury reported that the body seemed to be that of an infant of about eight days old, who, by the prisoner's confession, had been born to her. They added their opinion that the child must have been killed by its mother.

On the same evening (29th November) the Mamlutdar caused the confession of the prisoner to be written down. In this she admitted that three days before the lesser Dewalee she had been delivered of a living female child, whom she had immediately killed by squeezing its neck with her left hand. The prisoner fully confirmed this confession on the 15th December following before the First Assistant Magistrate.

She has, however, retracted it before this Court, and declares she is innocent of the murder.

It is unnecessary to detail minutely the evidence relating to preliminary circumstances in this case. The facts elicited by the Police during the investigation on the spot have been in all essential points admitted by the prisoner in her former confessions, and appear to be undeniable. There is no doubt, for instance, that the prisoner Mange (although a widow of many years) was, before the date named in the charge, found to be with child (witnesses

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Nos. 11 to 17) ; nor that she was warned, and required to give security not to procure abortion or destroy her infant (witnesses Nos. 11 to 13 and 17) ; nor that she was at that time far advanced in her pregnancy (witnesses Nos. 14, 15, and 17) ; nor that shortly after this, and at least seven or eight months after conception, she was found to be no longer pregnant (witnesses Nos. 14 and 15) ; nor that she had intermediately been delivered of a child.

So, likewise, there is no reason to doubt that the child thus born to the prisoner had been privately buried (witnesses Nos. 10 to 13) ; nor that its body, as admitted by the prisoner before the Mamlutdar, was the very one exhumed by the Police at Wadachapat (witnesses Nos. 9, 16, and 17), and examined by the Inquest Jury at Malwan (witnesses Nos. 1, 2, 4, and 17).

In respect to two points, however, the evidence is less complete, and they are the most important points, viz. whether or not this child came into the world alive ; and, if it did, whether or not the mother destroyed it.

Both these questions have been answered in the affirmative by the prisoner herself in her confession ; but before those confessions can be accepted as proof, it is necessary to determine the extent to which they are corroborated by circumstances.

The prisoner's statement that her child was born alive is substantiated by the following considerations :—she was so far advanced in her pregnancy that it is probable a child then born to her would be a living child ; the body, according to the Inquest Jury, was that of a grown child, and of one which might have been alive for some days ; the witnesses who saw the body on its first discovery, when it was less decomposed than at Malwan, make statements which strengthen this judgment ; the body was secretly buried, and no information of the birth given to the local Officer, in spite of previous warnings and exhortations ; finally, the mother

of the prisoner, a most reluctant witness, whose information is derived from statements made by the prisoner immediately after her delivery (before arrests had been made or inquiries instituted), and whose testimony therefore must be viewed rather as that of an independent witness, deposes (even before the Sessions Court) that her daughter did not state to her at the time that she had produced a dead child, but that she did state to her, in speaking of the child she had borne—"I will be responsible for what I have done" (*Majhe mee nistureen*). This expression indicates a consciousness of guilt, which could not have existed if the child had been still-born.

If it be held for certain that the prisoner gave birth to a living child, her statement that she destroyed it with her own hand will receive confirmation from the very circumstances of the case; for it is nowhere alleged (even by the prisoner herself) that any second person was present at her delivery, or saw the child alive, or aided in compassing its death; nor does it appear that any one else had any motive for destroying it.

On these grounds, therefore, as well as in consequence of the confessions freely made by the prisoner before the Mamlutdar of Malwan, and confirmed before the First Assistant Magistrate, the Court convicts her of the murder of her newly-born infant; in having, about the 26th October 1856, (Mitee Ashwin Wud 13th, Shuké 1778,) in the Jungle of Tikan, called Dhuwan Wutar, in the village of Wadachapat, Talooka Malwan, Zillah Rutnagherry, wilfully, and without justifiable or extenuating cause, strangled or otherwise killed her newly-born infant.

The crime of which the prisoner has thus been found guilty is one of great enormity, yet there is much in her position to suggest that the punishment awarded should (in kind) be as lenient as the law will allow. This woman (Mange) was ignorant, unprotected, almost destitute; she can have felt no malice against the person of

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her child ; she put an end to its life apparently from a dread of the shame it would bring upon her, and of the privations it would have to endure ; she did this almost in the pains of child-bearing. Without affirming that it is generally desirable to sentence convicts to long terms of solitary imprisonment, there can be little doubt that in this case at least such a punishment will be more appropriate than the only one which could otherwise be inflicted, viz. transportation for life ; and accordingly the following sentence is passed :—

That you, prisoner Mange kom. Krishna, be kept in solitary confinement for one (1) year. (Regulation XIV. Section XXVI. Clause 4th, of 1827.)

This sentence is subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

* * * * *

As the prisoner's son-in-law (Raghoo Sawunt) seems to have been more or less concerned in the private burial of the infant's body, it was of course impossible to examine him as a witness in this case, since he could not have admitted his share in that transaction without laying himself open to a charge of concealment of murder after the fact.

Much of the uncertainty in regard to many details connected with this crime arises from the neglect or criminality of the Foujdar of Wadachapat. The suspicions excited by his remissness were such as to prevent the First Assistant Magistrate from sending him up as a witness in the case. It is stated that, after inquiring specially into the conduct of the Foujdar, the Acting First Assistant Magistrate merely caused him to be reprimanded. Assuredly, however, the offence of which he had been guilty called for a much more serious punishment. It may appear to the Magistrate that the Police charge of this village should not be left in the hands of a person who has so signally failed to discharge

the duties of his office in a case of very great importance.

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In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—The evidence against the prisoner in this case consists of her confession, retracted in the Sessions Court, and corroborated by the facts that she had been pregnant, that she was secretly delivered, and that the body of the infant was secretly interred. The motive for the crime, shame. Corroboration is wanting, however, as to the fact of the child having been born alive, and that it was destroyed by its mother. Looking to the many accidents attending child-birth, and especially the chances of such occurring under the circumstances of this case, I do not think that the probability of the prisoner's having given birth to a living child can be taken in the place of such corroboration.

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W. H. Harrison,
Puisne Judge.

The concealment of the birth and burial of the child would not be inconsistent with the prisoner's innocence of the crime of murder, and, in my opinion, she must be acquitted.

Minute by Mr. Keays.—I am of opinion that it is clearly established that the prisoner was pregnant with a child she had carried between seven or eight months; that the usual precautions were taken to prevent her removing her pregnancy; that she suddenly appeared as if she had been delivered; that she acknowledged that she had been delivered of a female child; and that the body of that child was secretly buried. The only point for consideration is, whether the child was born alive. Of this there is no evidence beyond the confession of the prisoner, who says she killed it by strangling it with her hands. This confession, together with the inferences to be drawn from the fact of the child having been carried seven or eight months, the concealment of the body, and an expression used by the prisoner to her mother in communicating the fact of her

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having been confined, have convinced the Session Judge of the fact that the child was born alive, and I concur with him that they are sufficient. I am prepared to confirm conviction and sentence.

Resolution of the Sudder Foujdaree Adawlut.—Referred to a third Judge on the conviction.

W. E. Frere,
Puisne Judge.

Minute by Mr. Frere.—I could not convict upon such evidence as this. Taking it for granted that the prisoner had been pregnant and since delivered, of which there is no proof, though such might have been obtained by examining her by a Jury of matrons, there is no proof that the child found was hers, for, though she is said in her confession to have recognised it, that must have been impossible. There was nothing by which she could have recognised it. The child is said to have been strangled as soon as born. It is never asserted even that she put it where it was found, so that she could not have recognised it from its having been found where she put it; and from the state of decomposition it was in, it was impossible for anybody to have recognised it from any other new-born infant. There is nothing, then, but the retracted confession to prove any part of the charge, let alone the more important part of it that the child was born alive, and that the prisoner Mange strangled it. The retracted confession alone is not in my opinion sufficient evidence for conviction; and I agree with Mr. Harrison that the prisoner must be acquitted.

Final Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence are annulled, and the prisoner to be discharged.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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BROACH.

[Case No. 15 of the Criminal Return of the Magistrate of Broach for February 1857. Tried by the Deputy Magistrate, NOWROJEE BYRAMJEE, on the 24th February 1857. Reviewed on appeal by the Magistrate, C. J. DAVIES, on the 28th February and 28th March 1857. Proceedings certified to the Sudder Foudjaree Adawlut, on the petition of the prisoner Gungaram Kevulram.]

Prisoners.—No. 1, Gungaram Kevulram, Brahmin, aged 44.

2, Bhika Purshotum, Potter, aged 30.

3, Bechur Bhawusung, Kolee Tulavio, aged 35.

4, Purbhoowo Dulio, Bhungio, aged 22.

5, Nuthun Muchoo, Mussulman, aged 19.

Robbery with Force, by Day ; and Receiving Stolen Property, knowing it to be Stolen, or fraudulently Withheld from its Owner.

Charge.—Against prisoners Nos. 2, 3, 4, and 5, robbery with force, by day ; in that, about six months ago, exact date unknown, in the island of Poluria, they forcibly took away, by direction of Gungaram (prisoner No. 1), the cattle of the complainant Gooman Jeeta, worth in all Rs. 45, from Kudwa Dewa, with whom he placed them to graze.

Against prisoner No. 1, receiving stolen property, knowing it to be stolen, or fraudulently withheld from its owner ; in that, in the month of February 1857, exact date unknown, he was found in possession of a bullock, worth Rs. 20, belonging to the said complainant, and of a buffalo and a calf, also the complainant's, worth Rs. 25, which he had disposed of to a Kolee of Moujé Kudpore, Talooka Hansote, by name Nagjee Bhika, in whose house they were discovered on the prisoner's showing. (Reg. XIV. of 1827, Sect. XXXVII. Clause 3rd, and Reg. XIV. of 1827, Sect. XLI. Clause 1st.)

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Nowrojee By-
ramjee, Deputy
Magistrate.

Prisoners Nos. 1 and 2 plead not guilty, and prisoners Nos. 3, 4, and 5 plead guilty.

Finding and Sentence by the Deputy Magistrate.—Both from the evidence of witnesses Nos. 2, 3, and 4, and from the admission of prisoners Nos. 3, 4, and 5 (Bechur, Purbhoowo, and Nuthun), it is established that prisoners Bhika, Bechur, Purbhoowo, and Nuthun took away the cattle of the complainant from the possession of Kudwa Dewa, complainant's father-in-law; and from the admission of prisoner No. 1 (Gungaram), as well as from that of the rest of the prisoners, and the evidence of witnesses for the prosecution, it is proved that Gungaram had the same cattle in his possession.* The defence of prisoners Nos. 1 and 2 is, that far from the cattle having been forcibly taken away from complainant and Kudwa's possession, they were voluntarily delivered up to him by them, about a year and a quarter ago, in part payment of the sum of Rs. 28, which he alleges to have been due to him by those two persons, and a third, by name Oomed Lala. In support of this assertion he cites three witnesses, two of whom, Rama Lukha and Bhuga Jethi (Nos. 5 and 6), who are also complainant's witnesses, deny all knowledge of the fact of the delivery; and the third (No. 13), far from confirming his allegation, invalidates it by the false assertion that the complainant and Kudwa brought a buffalo, a calf, and a bullock; whereas, by the prisoner's own statement, there was no calf in existence then. It is, moreover, highly improbable that the cattle belonging to one person should have been voluntarily given up by him in payment of a sum alleged to have been owing by him in common with two others.

* From the opposition offered by the complainant and Kudwa Dewa, in the shape of remonstrance, as admitted by prisoners Nos. 3, 4, and 5, it is clear that the latter knew that it was the property not of Gungaram but of the complainant, and that they were not acting under any misconception which could have divested their act of criminality.
—Deputy Magistrate.

For the above reason, the Deputy Magistrate has convicted the prisoners of the offence laid to their respective charges, and sentenced them to undergo each three (3) months' imprisonment with hard labour. The cattle have been directed to be restored to the complainant, who is required to give a 'malzamin' for the production of the cattle, in case an appeal is made against the decision of the Deputy Magistrate. (Regulation XIV. of 1827, Section XXXVII. Clause 3rd, and Section XLI. Clause 1st.)

Reviewed, on a Petition of Appeal presented by Gungaram (No. 1), by the Magistrate.—I think it clearly established that prisoners Nos. 2, 3, 4, and 5 took away the cattle forcibly, or at least with such an exhibition of power as to constitute force. This was about six months ago; and prisoner No. 1, in whose possession the cattle undoubtedly were after they had passed from that of complainant, urges in defence that they had been placed in pledge with him by complainant a year and a quarter ago. I place no trust whatever on the evidence he adduces to prove this; and it is clear that if the cattle were forcibly taken from complainant only six months ago, he could not have voluntarily given them to Gungaram a year and a quarter ago.

I reject the appeal, and confirm the convictions and sentences.

Reviewed, on a Petition of Appeal presented by the Prisoners Nos. 3, 4, and 5, by the Magistrate.*—I have already

* *Memorandum to accompany the Guzerathee papers in the matter of the Cross-petitions of Gungaram Kevulram and Goomanjee Jeeta.*—This case comes before me in a somewhat complicated form. Had Goomanjee's complaint come before me in the first instance, I think that I should have at once put the parties complained against on their trial for robbery and instigation to robbery, acquitting or convicting the accused according to the evidence. The Deputy Magistrate, however, without finding that the cattle in dispute have been stolen, has ordered their restoration to the complainant, and has further ordered that the

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Magistrate.

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(February 28th) recorded my opinion that it is clearly established that the petitioners, together with prisoner money value of a buffalo sold by Gungaram should be paid by Gungaram to complainant.

I object to this manner of disposing of the case on several grounds. "

Unless Gungaram and his party be proved to have stolen, fraudulently removed, or kept, or to have received cattle so stolen, fraudulently removed, or kept from complainant, I do not see what authority the Deputy Magistrate had to order that the cattle should be given up to complainant. If any of the above alternatives had been proved, the Deputy Magistrate would have had authority to have brought the cattle before his Court, and could then, after investigation, have restored them (Section XLI. Clause 2nd) to the person from whom he found them to be stolen or fraudulently withheld. But if a thing be stolen, or fraudulently withheld, there must be stealers or fraudulent withholders; and as the Deputy Magistrate has not punished any of the persons who took away the cattle, or who now have them, the presumption is that he did not find that the cattle were stolen or fraudulently withheld. He, therefore, has no power to act on Section XLI. Clause 2nd. The only other power which he possesses as to disputed property is laid down in Regulation XII. of 1827, Section XVI. I am unable to see, therefore, how, even were I to confirm it, the Deputy Magistrate's order is to be carried out, particularly that part of it directing a money compensation. Were I to order it to be carried out, I do not see what defence I could make were Gungaram to bring a Civil suit against the Deputy Magistrate and myself. I have carefully perused the case cited by the Deputy Magistrate (petition of Venoobaee, Sudder Foujdaree Adawlut Reports for January 1856, page 155), and am unable to find anything which would enable me to answer Gungaram's claim. In that case the Court say,—“The Magistrate ought to have put petitioner in possession of her property, even if he did not punish the defendants”; but I am nevertheless unable to see how I can put the petitioner in possession of his property, without going through the preliminary process of punishing the defendants, or at least of deciding that they have stolen or are fraudulently withholding the property. It seems to me essential that the decision of a Criminal case should precede the restoration or otherwise of the property.

The above comprises three objections—

1. If Gungaram be not fraudulently withholding the property, the order is unjust to him.

2. If Gungaram be fraudulently withholding the property, the order is unjust to complainant, inasmuch as it gives him no redress, being an order which cannot be carried out.

No. 2, took away the cattle forcibly, or with such an exhibition of power as to constitute force. I therefore

3. Or supposing it to be carried out, so as to give Gooman redress, the Magistrate and Deputy Magistrate would subject themselves to a Civil action.

I have a further ground of objection to the order. If complainant's story be true, Gungaram, a wealthy man, has, without process of law, violently possessed himself of cattle worth Rs. 50 or Rs. 60, to cover a debt of Rs. 28, for which Gooman was only jointly responsible; nay more, though by the sale of a buffalo he has realised Rs. 20½ out of the Rs. 28, he still forcibly detains the rest of the cattle. If this be true, it is clear that Gungaram's offence is not sufficiently met by a mere order to restore what he has violently taken; such a lawless and oppressive proceeding demands punishment.

There is no need to enter into the money transactions between Gooman and Gungaram. The case for decision is simply this: Gooman complains that certain persons, by Gungaram's directions, forcibly took away his cattle, about three months back, from Kudwa Dewa, with whom he placed them to graze. If this story be proved, the persons who took the cattle away committed a robbery, and Gungaram is guilty of instigating the robbery. Gungaram's defence is a denial of the above, and an assertion that Gooman pawned the cattle to him a year ago; that is to say, nine months before the alleged robbery. If he can prove this, the complaint falls to the ground.

There is only one clear way of getting over all the difficulties in this case, and that is to bring Bhika Purshotum, and the other persons alleged to have taken the cattle away, to trial for robbery, and Gungaram to trial for instigation to robbery, or for (which perhaps will be best) receiving property, knowing it to be stolen, or fraudulently withheld from its owner.

The cattle in dispute, including the one sold, in whosever possession it may now be (Section XLI. Clause 2nd), can then be brought before the trying Authority, and by him given, at the conclusion of the case, to Gooman, if he finds that they were stolen from him; or restored to the persons in whose possession they now are, if he finds that they were not so stolen.

I beg therefore to request that the Deputy Magistrate will at once put Bhika Purshotum, Gungaram Kewul, Bechur Bhawusung, &c. on their trial, as above; the cattle to be ultimately disposed of in accordance with his decision in that case.

As, whatever the Deputy Magistrate's decision may be, it is probable that the case will be again appealed, he should take malzamin from the person to whom he ultimately delivers the cattle.

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BROACH.

Robbery with
Force, by Day;
and Receiving Stolen
Property,
knowing it to be
Stolen, or fraudu-
lently Withheld
from its Owner.

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BROACH.
Robbery, &c.

reject their present appeal. The prisoners are to be informed that as the case has already been reviewed and confirmed by me, they should prefer a petition of appeal to the Sudder Foujdaree Adawlut, if dissatisfied.

Resolution of the Sudder Foujdaree Adawlut.—The petitions of the prisoners are rejected.

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May 27.

COLABA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Reference from the Joint Magistrate of Colaba, L. REID, of the 18th March 1857, to the Sudder Foujdaree Adawlut, recommending the further detention in Jail of the prisoner Sumbhaya bin Rama for one year, in default of furnishing security.]

Precautionary
Measures.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In conformity to Clause 1st, Section XXVII. Regulation XII. of 1827, I have the honour to request the sanction of the Judges of the Sudder Foujdaree Adawlut to the further detention, for one year from the 28th instant, of Sumbhaya bin Rama Kathuree, whose case is reported at page 495 of the Selected Cases for April 1856.

The prisoner is unable to furnish the security demanded, and there are no circumstances in his case upon consideration of which any remission of the sentence could be recommended.

Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—The prisoner has been tried for the murder of his wife, and acquitted; he has, since that, been two years in jail for want of security. The Joint Magistrate says he is the terror of the neighbourhood, which was considered to account for his being charged with the murder. The Court do not think it would be right to keep him a third year in jail, unless the Joint Magistrate can show some further reasons for his detention.

Return by the Joint Magistrate.—In returning this Precept within the specified time, the Joint Magistrate has the honour to state, with reference to the extract from the Court's proceedings, that he can show no further reason for the prisoner's detention than that he is a notorious object of public distrust, having neither a settled home nor calling of any kind. He lives just as it pleases him, either in caves or in the hollow of trees, sometimes making his bed among the branches. Before his committal, he used to obtain his livelihood chiefly by stopping the women and children as they came with their baskets of grain from the fields, or from market, and forcibly taking them from them. If the villagers did their duty, there would be less apprehension in letting him loose; but they are too cowed to interfere with him; and as there is no chance of his settling down to any honest livelihood, the Joint Magistrate does not think there would be any hardship in making him undergo the full sentence. On hearing of his being received from the Session Judge, a number of villagers appeared to protest against his release, and were only satisfied on being told another year of his sentence was still unexpired.

Further Precept issued by the Sudder Foujdaree Adawlut to the Joint Magistrate.—The Joint Magistrate's reason for requiring this person's further detention is because the villagers (including, of course, the Police) do not do their duty. It was his business to see that the villagers did their duty, and not to apply to the Court to exercise their powers in order that the villagers and Police may, with greater ease and comfort, be negligent. The Joint Magistrate's request therefore cannot be complied with, and the prisoner must be released.

Further Return by the Joint Magistrate, returned duly executed.—The Joint Magistrate begs to express his regret, with reference to the Court's remarks, that the Court should have been led from his report to impute negligence

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and shirking of duty to himself and the Police, which are fairly chargeable to neither. When a regular panic has seized whole villages, it is not within the power of the Joint Magistrate or the Police to allay it so long as the cause is not removed. The villagers' conduct is doubtless extremely childish, but neither the Joint Magistrate nor the Police are responsible for their intellectual imperfections. A practical instance of still greater childishness was exhibited in these districts only a few months ago, with which the Court are well acquainted.

Resolution of the Sudder Foujdaree Adawlut.—The Joint Magistrate is to be informed that he ought not to comment upon the Court's orders. If he thinks they are given under mistake, he might point out the mistake; but the better course is, whenever he feels himself aggrieved by remarks of the Sudder Foujdaree Adawlut, that he should appeal to Government. He cannot be allowed to send to the Court his comments on their orders. If the case of panic to which he alludes be that commonly called the Railway panic, the cases are in no way similar. If he alludes to any other panic, the Judges do not recollect it. The Railway panic was pure hallucination; that cannot be said of the fear the villagers are supposed to entertain of Sumbhaya, as by stopping women and children, and forcibly taking away their baskets from them, he is a manifest and proper cause of fear as a robber. But the right course to pursue with him is to punish him as a robber, and not keep him idle in jail for want of security.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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COLABA.

[Notice issued by the Joint Magistrate of Colaba, L. REID, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 17th April 1857.]

Notice, under Section XIX. Regulation XII. of 1827, Notice by a Joint Magistrate.
 is hereby given, that whereas the practice exists of sinking fishing-stakes of so short a size as not to be visible above the surface of the water, and boats are liable, by striking against them, to founder, by which injury to lives as well as property is occasioned : all owners of fishing-stakes in the various creeks, and along the seaboard of the Colaba Sub-Collectorate, are warned that such a practice is no longer to be followed, and is hereby strictly forbidden ; and they are accordingly required to remove or replace those of an unsuitable size, taking care that every stake be distinctly visible.

Disobedience of this Injunction will be punished according to law.

Letter from the Joint Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In compliance with the provisions of Clause 6th, Section XIX. Regulation XII. of 1827, I have the honour to forward, for the approval of the Judges of the Sudder Foujdaree Adawlut, a copy and translation of an Injunction this day issued by me.

The Court have no doubt been made aware of the cause of the unfortunate accident which occasioned the loss of a portion of the records belonging to the Office of the Judge of the Konkun whilst in transit from Ru'nagherry to Tanna ; and as the matter was brought to my notice by Government through the Magistrate of Tanna, in order to measures being adopted for the prevention of the practice which has, on inquiry, been found to prevail to a considerable extent, I have thought it expedient to issue the present Injunction.

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COLABA.

Notice by a Joint
Magistrate.

Precept issued by the *Sudder Foujdaree Adawlut* to the *Joint Magistrate*.—It would be better that the stakes should be made a certain height above high-water than that the orders should be so indefinite as these are. The Court cannot record the Proclamation in its present form.

Amended Notice.—[The same as the first, with the addition at the end of the first paragraph of the words “six feet above high-water.”]

Return by the Joint Magistrate.—In returning the within *Precept* within the prescribed time, the Joint Magistrate has the honour to forward herewith an amended *Injunction*, containing the information mentioned in the extract from the Courts proceedings.

Resolution of the Sudder Foujdaree Adawlut.—The Joint Magistrate is to be informed that the translation is not correct, but the Murathee Proclamation is unobjectionable, and may be recorded.

CASES

DISPOSED OF BY THE

SUDDER FOUJDAREE ADAWLUT OF BOMBAY,

IN JUNE 1857.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 10 of the Calendar of the Ahmednuggur Sessions Court for AHMEDNUGGUR.
1857. Committed by the Acting Hoozoor Deputy Magistrate,
RAMCHUNDER AMRIT DUGLE, on the 16th March 1857. Tried
by the Session Judge, J. W. WOODCOCK, on the 17th March
1857. Proceedings certified, on the requisition of the Sudder
Foujdaree Adawlut.]

Prisoners.—No. 1, Akha, *alias* Reedmul wulud Jhor-
jee, Rajpoot, aged 45.
2, Goolabpooree, Disciple of Dongur-
pooree, Gosavee, aged 55.

Attempt to Es-
cape from Custody
after Sentence.

Charge.—Attempt to escape from custody after sen-
tence (Regulation XIV. A. D. 1827, Section XXIV.,
and Section I. Clause 2nd of the same Regulation); in
having, on 23rd February 1857, (corresponding with
Magh Wud 14th, Shuké 1778,) at Nuggur, Zillah Ah-
mednuggur, at night, opened the lock of the cell of the
Criminal Jail in which they were confined, made a ladder
of pieces of ropes and rafters, and put it to one of the
walls of the Criminal Jail, with an intent to effect their
escape.

The prisoners plead guilty.

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AHMEDNUGGUR.

Attempt to Escape from Custody after Sentence.

J. W. Woodcock,
Session Judge.

Finding and Sentence by the Sessions Court.—These two prisoners committed a robbery to a large amount, and, before sentence, attempted to escape; and since they have been in Jail, a nail was found upon the second prisoner (Goolabpooree), when he was searched one evening before being locked up in his cell. As they were employed upon the new works now in progress in the Jail, they knew that means of escape were at hand in numberless poles and ropes, &c. lying about in every direction, and it is quite evident that their plan of escape had been well matured. Although the night was dark, and they had bound rags filled in with rice round their fetters in order that they might not make a clanking, it is strange that the two sentries who were posted upon the flat roofs of the two cells, which formed, as it were, wings to the 'Musjeed Cell,' did not hear the click of the key,—for to all appearance the padlock of the cell door was opened with a key,—or that they did not hear the noise which must have been made—for the night was very still—when the prisoners put aside two of the row of poles which divide the new works from the main body of the Jail, and form a kind of wall, and through which opening prisoners got into the yard where the new cells are being erected. Again, the Court cannot understand how it was that the sentry, who is posted on the outer wall of the Jail which forms the boundary of this yard, did not hear the noise which must have been made by prisoners taking up the poles, and removing the ropes from the saw-mill, with which they tied the poles together, and made a kind of ladder, which was found against the wall, and by means of which they had scaled the wall.

The evidence of the sentries on guard that night was not taken by the Acting Hoozoor Deputy Magistrate; but as the Court is acquainted with all the circumstances, it has entered into this detail, and it resolves to forward an extract from these proceedings to the Brigadier Com-

manding the Station, for such notice as he may see fit to take of the conduct of the sentries nearest to the cell out of which the prisoners found their way, and of the sentries nearest to the spot from which their escape was meditated.

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AHMEDNUGGUR.

Attempt to Escape from Custody after Sentence.

The prisoners are found guilty, upon their own confessions, and the evidence of the witnesses, of an attempt to escape from custody after sentence; in having, on 23rd February 1857, (corresponding with Magh Wud 14th, Shuké 1778,) at Nuggur, Zillah Ahmednuggur, at night, opened the lock of the cell of the Criminal Jail in which they were confined, made a ladder of pieces of ropes and rafters, and put it to one of the walls of the Criminal Jail, with an intent to effect their escape.

Read and recorded the former warrant of Akha, *alias* Reedmul wulud Jhorjee (prisoner No. 1), issued by J. W. Woodcock, Esquire, Session Judge of the Zillah of Ahmednuggur, on the 22nd August 1856, sentencing the prisoner to be imprisoned and kept to hard labour for the term of four years.

Read and recorded the former warrant of Goolabpooree Gooroo Dongurpooree (prisoner No. 2), issued by J. W. Woodcock, Esquire, Session Judge of the Zillah of Ahmednuggur, on the 22nd August 1856, sentencing the prisoner to be imprisoned and kept to hard labour for the term of three years.

The prisoners admit the above warrants, and the Court passes the following sentence, under Regulation XIV. of 1827, Section XXIV., and Section I. Clause 1st of the same Regulation :—

That you, Akha, *alias* Reedmul wulud Jhorjee (prisoner No. 1), and Goolabpooree Gooroo Dongurpooree (prisoner No. 2), be each imprisoned and kept to hard labour for the term of two (2) years, and that you each be flogged to the extent of thirty (30) lashes at the end of the first and second month, fifteen (15) lashes at

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AHMEDNUGGUR.

Attempt to Es-
cape from Custody
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each infliction ; which sentence is to take effect at the expiration of the terms of imprisonment which you are now undergoing.

Resolution of the Sudder Foujdaree Adawlut.—The Court mitigate the sentence passed upon the prisoners, and direct that they be each twice flogged,—once on the receipt of the Precept, and once a month after ; and they remit all the two years' additional imprisonment.

They observe that in his finding the Session Judge goes into a detail of circumstances which were not before him in evidence ; but as the prisoners pleaded guilty, there was not the same objection to these remarks as there would have been had they pleaded not guilty.

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POONA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Injunction issued by the First Assistant Magistrate of Poona, D. C. R. LEIGHTON, on the 11th April 1857, and referred by him to the Sudder Foujdaree Adawlut.]

Injunction by
the First Assist-
ant Magistrate.

Injunction, under Regulation XII. Section XIX. of 1827.—Whereas persons have been in the habit of dirtying the water in the river Indrayénee, at the Village of Khurkala, Talooka Mawul, by washing cattle, clothes, or other articles : Notice is hereby given, that in future, if any one be found dirtying the water in this river (between 1st November and 15th June) at the above village, and rendering it unfit for drinking, he will be punished according to law.

Letter from the First Assistant Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward copy of an Injunction, together with its translation in Murathee, issued by me in the village of Khurkala, Talooka Mawul, of this Zillah, under Section XIX. Regulation XII. of 1827.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to specify the limits within which the Proclamation is to have effect.

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Amended Injunction under Regulation XII. Section XIX. of 1827.—Whereas persons have been found in the habit of dirtying the water in the river Indrayénee, at the Village of Khurkala, Talooka Mawul, Zillah Poona, by washing cattle, clothes, or other articles: Notice is hereby given, that in future, between 1st November and 15th June, if any person be found dirtying the water in this river at the above village, and rendering it unfit for drinking, within the space of 2,200 cubits in length from east to west, viz. 688 cubits on the east and 1,512 cubits on the west, from the passage leading to the river under the railway bridge at that village, he will be punished according to law.

Injunction by
the First Assistant
Magistrate.

Return by the Acting Magistrate.—The Acting Magistrate has the honour to forward an amended Injunction, as directed in the extract of the Court's proceedings received with the Precept now returned.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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POONA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 93 of the Calendar of the Poona Sessions Court for 1856. Committed by the Second Assistant Magistrate, C. GONNE, on the 19th December 1856. Tried by the Acting Assistant Session Judge, C. G. KEMBALL, on the 5th and 6th January 1857. Reviewed by the Acting Session Judge, C. M. HARRISON, on the 23rd January 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petitions of the prisoners.]

Conspiracy.

Prisoners.—No. 1, Sukaram bin Trimbukjee, Koon-bee, aged 40.

2, Rámchunder Sukaram Deshpandé, Brahmin, aged 22.

3, Bulwunt Wittul Dëshpandé, Brahmin, aged 45.

Charge.—Conspiracy ; in that, on or before the 10th January 1852, (corresponding to Poush Wud 3rd, Shuké 1773,) they did combine together to injure one Rajadhurrow bin Hybutrow, and others, by endeavouring by illegal means to deprive them of certain rights which had been made the subject of a civil suit, and which had been established in the Court of the Moonsiff of Tullegaum, confirmed in the Appellate Courts of the Assistant Judge of Poona and Sudder Dewanee Adawlut.

Prisoner No. 1 (Sukaram), in having produced, knowingly, two false documents, a Peishwa's 'sunud' and a 'muhnjurnama.'

And prisoners Nos. 2 and 3 (Rámchunder and Bulwunt), in having assisted in the fabrication or production of these documents with the object above stated.

The charge is read over and explained before the Court to the prisoners, who are each asked whether they be guilty or not guilty. They all plead not guilty.

C. G. Kemball,
Acting Assistant
Session Judge.

Finding and Sentence in the Sessions Court.—The prisoners were sent up to the Sessions, charged, prisoner No. 1 with forgery and conspiracy, and prisoners Nos. 2

and 3 with conspiracy. After a consideration of the whole circumstances, the Court determined on allowing the one charge against all the prisoners of "conspiracy" to be prosecuted, and on that charge they have stood their trial. It appears that, as far back as 1847, one Rajadhurow (prosecutor) and fifteen others brought an action in the Court of the Moonsiff of Tullegaum against fourteen others; amongst them Sukaram (prisoner No. 1), for the possession of some Inam land. The Moonsiff decided in the plaintiff's favour, and the decision was upheld in appeal. Four years afterwards, *i. e.* in the year 1852, a petition was made for a revision of the decree, on the ground that certain documents before not forthcoming had been discovered, and two documents were produced, a Peishwa's sunud and a muhujurnama. The Assistant Judge, on this application, passed an order that the revision would not be granted unless the applicants could show good cause why the documents were not produced before. Matters thus remained till 1854 (though in the interval the documents had been taken back for the purpose of being stamped in the Inam Office), when Bulwuntrow (prisoner No. 3) came forward to depose that he had given the papers to Sukaram (prisoner No. 1) in 1851. On this the Assistant Judge wrote to the Sudder, requesting that the application for the revision might be accepted. On this the "revision" was sanctioned, and the case returned to the Moonsiff for re-trial. The Moonsiff, in the course of the second investigation, having reason to doubt the genuineness of the fresh documents, sent them to the Inam Office for opinion. The Inam Commissioner wrote back in reply to say that the documents were, for certain reasons assigned, undoubted forgeries. The Moonsiff on that again decided in the plaintiff's favour, and sent the prisoners now before the Court to the Magisterial Authorities; prisoner No. 1 having produced the documents, and prisoners Nos. 2

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and 3 having been connected directly with their discovery and production. Before proceeding further it appears necessary to explain how the application for the revision came to be admitted. It is learnt from the original proceedings that the appellants (original defendants), Sukaram (prisoner No. 1) and others, stated, in support of their appeal before the Assistant Judge, that there were some documents with the Collector which would clearly establish their title to the land, but which they had not up to that time been able to obtain. The Assistant Judge, in confirming the Moonsiff's decision and thereby rejecting the appeal, remarked that an application for a revision might be admitted, "should certain documents, for which he states that application has been made to the Collector, show valid grounds for such a procedure." Bulwuntrow (prisoner No. 3), as shown above, deposed to having given the papers to Sukaram (prisoner No. 1), one of the appellants, in 1851, and the application was admitted.

The prisoners content themselves with asserting that "the documents are not false, and that therefore the charge will not hold against them." Sukaram (prisoner No. 1) allowed himself, before the Assistant Magistrate, that he *alone* of the 'bhaeebund' presented the papers. His Vakeel has deposed that *Sukaram was the prime and sole mover* in the civil proceedings. Bulwuntrow (prisoner No. 3) stated in his evidence before the Moonsiff, in accounting for the production of the papers, that *Sukaram came to ask him to see if he had any papers relating to his Inam, and Ramchunder (prisoner No. 2) stated that he gave the papers to Bulwuntrow, as he did not know Sukaram.* The other prisoners acknowledge the facts imputed to them *in re* the discovery and production of the papers. It may therefore be held established that prisoner No. 1 (Sukaram) produced the papers in evidence; that prisoner No. 3 (Bulwuntrow) gave, or de-

posed that he gave, the papers to be produced ; and that prisoner No. 2 (Ramchunder) discovered, or deposed that he discovered, the papers in his ' duftur,' and gave them to Bulwuntrow.

The whole case rests on the proof of the character of these two documents, the Peishwa's sunud and the muhujurnama ; regarding their production and employment there is no dispute. These documents are produced, and, after a very careful consideration of the whole case, the Court is of opinion, from the documents themselves, the circumstances connected with their production, and the very conflicting statements made in support of them, that there can be no doubt of their entire falsity. The muhujurnama, or written award, bears date corresponding to A. D. 1779-80 ; it alludes to an order regarding the preparation of a muhujurnama, which the Peishwa's Minister, Mahadeorow Narayen, gave in a year corresponding to A. D. 1748-49, twenty-six years before his (Mahadeorow Narayen's) birth, which took place in A. D. 1774 ; secondly, from the dates shown, the muhujurnama was not written till thirty years after the issue of the order regarding it ; thirdly, one of the signatures commences with " Raja Shiri," a style never adopted save in addresses. That this was intended for a *signature*, and not merely one of a number of names of persons present, is shown beyond a doubt by the other *signatures* below and above it ; and lastly, the Sir-Deshmook's seal or signature is missing. It was the invariable custom for that personage to affix his seal, or signature, or both, to such documents. The question of this document being an original or a copy will be noticed hereafter.

With reference to the Peishwa's sunud, to show that the seal thereon was not genuine, two documents bearing the Peishwa's seal were produced in Court, from the Inam Commission Office ; on comparing these with that

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of the sunud in question, the dissimilarity, or rather sufficient similarity to indicate the attempt at counterfeit in the latter, was apparent; 2ndly, the "address" was shown, as far as the Inam Office could furnish information on the subject, to be singular and informal, it having been the invariable custom to address such orders to the officer of the district, and *not* to the parties concerned in the dispute; and 3rdly, the style of the document showed that the document must, or rather should, have come from the Fudnessee department, whereas no record of it was to be found in the 'rojkhird' of the corresponding date; it is, however, contended that such a document should have been issued from the Chitnessee department. [It is learnt that in the Peishwa's time there were two different and totally distinct departments, the Fudnessee and the Chitnessee. In the former all the 'jumakhirch' business was transacted, and all orders issuing from that department were invariably entered in the rojkhird; from the Chitnessee all miscellaneous orders, such as 'takeedputras,' &c. were issued, of which no registry was kept.]

Proof regarding the above inaccuracies is solely derived from the evidence of Mr. Bapoo Rowjee, Sub-Assistant to the Inam Commissioner, supported by various documents produced by him in the course of his deposition; but, confirmed as his statements are in the most important points, and technically acquainted as he is with the practice in its minutest details, which obtained in the Peishwa's time, his testimony is, in the Court's opinion, entitled to the fullest reliance. Now, though the evidence adduced is, from the very nature of the case, but circumstantial, still the circumstances proved afford presumption necessary and probable, which may be justly held to establish beyond a doubt the fabrication of the documents. In the case of the muhujurnama, the glaring mistake as to the order

issued by Mahadeo Narayan, Minister, twenty-six years before his birth, affords a *necessary*, and the facts of the order not having been carried out till thirty years after one of the witnesses being made to sign himself 'Rajah Shiri,' and the absence of the Sir-Deshmook's seal or signature afford *probable* presumption of the falsity of the document. In the case of the Peishwa's sunud *probable* presumption also of its falsity is derivable from the unconformity observable in the seal, the address (to the parties concerned), and style of the document. Further, in connection with these documents, two facts, though affording presumption too light to have any weight or validity, are still worthy of notice, viz. that it should have been necessary to frame the muhujurnama although the question had been settled (by the sunud) four years before by the Minister, and that the sunud, or more properly takeedputra, was issued in favour of one party manifestly on an application from the opposite party for a share in the "rights" and "proceeds" of the village.

But if it be argued that though the above facts show strong grounds for suspicion the falsity of the documents is by no means proved, the conflicting statements of the two principal witnesses, together with the circumstances connected with the production, afford evidence incontestibly confirmatory of these suspicions, and, consequently, of the conclusions arrived at regarding the character of the documents. It is here to be remarked, that when the case No. 1378 was returned for revision, there was another case pending in the same Moonsiff's Court between the same parties and touching the same question. The documents, the subject of the present investigation, were alleged to materially affect both cases. The evidence, touching the muhujurnama and Peishwa's sunud, of prisoners Nos. 2 and 3 (Ramchunder and Bulwuntrow) were taken in both cases, in No. 1190

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first, and subsequently in No. 1378. They both, in the first case, spoke of the papers as originals, and Bulwuntrow (prisoner No. 3) distinctly stated that the 'muhujur' was an original, that he had seen it in the house of Sukaram Cashunath (evidently the father of prisoner No. 2), and had obtained it from Ramchunder (prisoner No. 2). Subsequently, in giving his evidence in case No. 1378 the next day, when certain peculiar features were pointed out, Bulwuntrow (prisoner No. 3) contended "that the mistake in the date was an error in copying"; and when reminded that, the day before, he had stated that it was an original, he further stated "that he had not carefully looked at the document when he said so; that he got this copy from Ramchunder (prisoner No. 2), but that he had the original himself; had had it for the past seven years, but did not remember this fact when he got the copy from Ramchunder, and that he would produce the original." Touching the production of the original, it is hardly necessary to add that he did not keep his promise. His deposition contains a mass of contradictory statements truly wonderful; it would, however, be a waste of time to go through them here. The above discrepancies speak for themselves. Suffice it to say that the existence of the 'tippun' in Bulwuntrow's own handwriting, given in by him into Court to back the application for the revision, proves, beyond a doubt, that he *intended* the document to be accepted as an original [and, further, if anything more is necessary, the seals on a *copy* are significant]. Ramchunder (prisoner No. 2) in this case followed suit, stating that the documents were copies, but that he did not say so the day before, as he was not asked. The conflicting statements *per se* of the two last prisoners relieve the Court of the necessity and labour of proving that they could not have been the innocent instruments of some persons unknown

in furthering their fraudulent designs, though one circumstance, strongly indicating as it does Bulwuntrow's part in the affair, must be noticed here in conclusion. This prisoner (No. 3) was, in 1848, at the original trial of the suit No. 1378, *a witness for the plaintiffs*, called as Deshmook of the village to speak to certain facts within his knowledge. He deposed that "his father had formerly the management of the village; that, about a century or a century and a quarter ago, there had been a dispute between the plaintiff's and defendant's factions; that the dispute had gone up to the Sattara Raja, who had decided in plaintiff's favour, and had granted them a 'putra': the defendants then went off for fifty years," but *he made no mention of any documents having been given to the defendants*. Four years after he came forward as witness for the defendants, to depose to two documents having been given to them. The above facts require no comment. Now, it is hardly possible, in a case of this kind, to imagine stronger evidence of the positive falsity of the documents than the documents themselves. The diametrically opposite statements of the attesting witnesses, and the every circumstance connected with their discovery and presentation, tend to prove this one point indisputably. Hold this point, as the Court does, without further hesitation, clearly established, and the whole plot is laid bare. There is no necessity to touch on the merits of the question contested in the Civil Courts; it is sufficient here to know that these documents did, or rather were intended to, materially affect the question at issue, viz. certain Inam rights and privileges. The mention in the course of the original investigation of "certain papers to be produced from the Collector," and the subsequent remark in the Assistant Judge's Minute that "in the event of the papers being produced from the Collectors, and good grounds being shown, a revision might be admitted,"

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opened the way for the production of some papers, and for an application on them for a revision, though unfortunately in the original representation the word 'Paimash' was applied to them; and further, though it was made to appear in the application for the revision that the Collector had been applied to for the papers, the supposition that such was done is destroyed by the statement of prisoners Nos. 2 and 3. Then the facts of the plaintiffs having in prosecution of their suit produced a sunud from the Minister, and the prisoners Nos. 2 and 3, being Deshmooks, evidently induced the fabrication of the counter documents (though from the original mention of the word Paimash this line of tactics was evidently an after-thought) and the introduction of prisoners Nos. 2 and 3 as attesting witnesses.

After a full and careful consideration of the nature of the charge brought against them, and the facts in evidence, all three prisoners are pronounced guilty of having conspired together to deprive, by illegal means, the prosecutor and others of certain rights. A similar case, No. 94 of 1856, was tried only a few days ago, and the Assistant Judge had then occasion to remark on the fearful prevalence in this Zillah of crimes of this nature, and to award a very heavy punishment.*

Before concluding, the Court feels called upon to express its satisfaction at the clear, intelligent manner in which Mr. Bapoo Rowjée gave his evidence, and its sense of the great assistance afforded by him.

Having maturely considered the nature of the crime, and the relative parts played by the different prisoners, the Court proceeds to pass the following sentence:—That you, Sukaram bin Trimbukjee (prisoner No. 1), and you, Bulwunt Witul (prisoner No. 3), be imprisoned and kept to hard labour for the term of

* The conviction and sentence were upset afterwards by the Session Judge in review.—*Acting Session Judge.*

seven (7) years ; and that you, Ramchunder Sukaram, be imprisoned and kept to hard labour for two (2) years. Subject to the confirmation of the Session Judge.

Review by the Acting Session Judge.—Read the papers and proceedings in the case of prisoners No. 1 (Sukaram bin Trimbukjee), No. 2 (Ramchunder Sukaram), and No. 3 (Bulwunt Wittul) submitted by C. G. Kemball, Esquire, Acting Assistant Session Judge of Poona, on the 6th instant, for confirmation.

The muhujurnama was produced as an original document, and an order from the Peishwa being quoted in it as the authority for an award dated twenty-six years before his (the Peishwa's) birth, no doubt regarding its falsity can exist. The sunud, from its not bearing the Sir-Deshmook's seal or signature, from its address, from the department in which it purports to have been prepared, from its style, from words used therein, and from its seal, is also evidently *not* a genuine document ; and as the complicity of the prisoners in the production of these false documents with a view to obtain a review of judgment in the Assistant Judge's Civil Appeal Court is clearly proved by the evidence recorded and their own admissions, and it is impossible to believe that they were ignorant of their being forgeries, they have, in the Court's opinion, been rightly convicted of the crime of conspiracy.

With regard to the sentence passed, the Court does not see that prisoner No. 2 (Ramchunder) is less guilty than prisoners No. 1 (Sukaram) and No. 3 (Bulwunt) ; and the period of imprisonment awarded to the two latter may, the Court thinks, be reduced to three years' imprisonment with hard labour.

Petitions from the Prisoners.—[Praying that the sentence might be annulled.]

Precept issued to the Acting Session Judge.—The Session Judge is to be requested to certify the papers and proceedings ; and it being urged in the petitions that

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Rowjee Pensay was summoned for the defence, and that the Assistant Session Judge refused to examine him, the Session Judge is to report whether this is the case or not.

Return by the Acting Session Judge to the Preecept.—The papers and proceedings are herewith certified. Rowjee Pensay was not cited by the prisoner as a witness, and consequently was not summoned or examined. The Acting Session Judge begs respectfully to point out that the petition now reported upon does not contain matter to the effect of the extract from the Court's proceedings.

Resolution of the Sudder Foujdaree Adawlut.—Petitions rejected.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 14 of the Criminal Return of the Magistrate of Khandeish for April 1856. Tried by the Deputy Magistrate, RAM NAID, on the 18th April 1856. Confirmed by the Magistrate, S. MANSFIELD, on the 26th April 1856. Proceedings submitted to the Sudder Foujdaree Adawlut by the Magistrate.]

Failing to furnish a Security for future Good Conduct.

Prisoner.—Mungoo wulud Kaloo, Turvee, aged 30.

Charge.—Failing to furnish a security for future good conduct (Regulation XII. of 1827, Section XXVII. Clause 1st); in having failed to furnish a security in the sum of Rs. 200, for the period of two years, to maintain good conduct, on the 18th April 1856, (corresponding with Friday, the 13th Chuitru Shood, Shuké 1778,) at Dhoolia, Talooka Dhoolia, Zillah Khandeish, agreeably to the Deputy Magistrate's requisition, made in conformity with the Magistrate's order, in consequence of the prisoner being an old offender, and strongly suspected of having assaulted and robbed Khooshal wulud Poput Mahjun on the 15th January 1856.

Finding and Sentence by the Deputy Magistrate.—The Deputy Magistrate convicted and sentenced the prisoner for gang robbery by night, with force ; but the Magistrate, in reviewing the Deputy Magistrate's proceedings, was of opinion that the evidence recorded was not sufficient to sustain the charge, and therefore annulled the conviction and sentence, ordering the prisoner, however, to be required to find a security for Rs. 200, for the space of two years, for good conduct, evidently implying thereby that he had a strong suspicion against the prisoner.

The Deputy Magistrate accordingly orders the prisoner to be imprisoned for two years in the Criminal Jail, without labour, or until he does find the required security within that period ; this decision being, as regards the first year, subject to the confirmation of the Magistrate, and, as regards the period in excess of the first year, to that of the Court of the Sudder Foujdaree Adawlut. (Regulation XII. of 1827, Section XXVII. Clause 1st.)

Confirmation by the Magistrate.—The sentence as regards the first year confirmed ; and, in the event of the prisoner not furnishing the requisite security within that period, the case to be forwarded for the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—I have the honour to forward the proceedings of Mr. Ram Naid, Deputy Magistrate, who, by my direction, ordered one Mungoo wulud Kaloo Turvee to find security for his good conduct for two years in the sum of Rs. 200, and, on his being unable to do so, sentenced him two years' imprisonment.

I confirmed the sentence to the extent of one year ; but, as the prisoner has failed to furnish security, and the year has nearly expired, I request the Judges of the

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Sudder Foujdaree Adawlut will have the goodness to confirm the remaining portion of the sentence.

The prisoner was sentenced by the Deputy Magistrate on the 18th April 1856, and the sentence therefore will expire before I can receive an answer ; but I am not aware of any legal objection to the prisoner being re-incarcerated, should the Judges see fit to confirm the sentence.

Mr. Ram Naid was ordered to send me his proceedings six weeks before the sentence expired, but I received them only yesterday, and was therefore unable to make an earlier reference.

Precept issued by the Sudder Foujdaree Adawlut, to the Magistrate.—The Magistrate is to be requested to state his reasons for thinking Mungoo wulud Kaloo a suspicious character.

Return by the Magistrate.—The Magistrate, in execution of the above Precept, begs to state that the prisoner Mungoo wulud Kaloo was convicted of gang robbery by the Deputy Magistrate, but the Magistrate, considering the proof insufficient (though he had no moral doubt of the guilt of the prisoner), annulled the proceedings.

From the statement of Mungoo recorded in the above case, it appears that about five years ago, he suffered two years' imprisonment at Kandweh, in Nimar, for robbery ; and this fact is confirmed by Govinda wulud Deola, the Police Patel of Thomaswary, who further states in his deposition that the prisoner's (Mungoo) general conduct is bad.

For the above reasons the Magistrate thinks Mungoo wulud Kaloo a suspicious character.

The papers and proceedings are returned.

The earlier execution has been delayed by the necessity of a reference to the records at Dhoolia.

Resolution of the Sudder Foujdaree Adawlut.—The Court sanction the further detention of the prisoner.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 23 of the Calendar of the Konkun Sessions Court for 1857.

Committed by the Assistant Magistrate, Captain C. W. WALKER, on the 6th March 1857. Tried by the Acting Session Judge, C. J. ERSKINE, on the 23rd, 24th, 26th, 27th, and 30th March 1857. Proceedings submitted to the Sudder Foujdaree Adawlut on the petitions of the prisoners Anund Wala Mookadum and Koosa bin Vitoo Sinda.]

Prisoners.—No. 1, Shurfoodeen, Mahomedan, aged 25.

2, Mahomed Salia wulud Sheikh Amlia, Mahomedan, aged 30.

3, Anund Wala Mookadum, Luvane Tukur, aged 52.

4, Bhugwunta bin Malojee, Pandhuria, Muratha, aged 35.

5, Koosa bin Vitoo Sinda, Muratha, aged 30.

Robbery by Night, without Force; and Criminal Receipt of the Stolen Property, knowing it to be Stolen, or having evident grounds for believing it to be Stolen..

Charge.—Robbery by night, without force (Regulation XIV. Section XXXVII. Clause 4th, of 1827); in that, on the night of the 13th February 1857 (Mitee 4th, Magh Wud, Shuké 1778,) they, at Panwell Bunder, Talooka Panwell, Zillah Konkun, from the boat 'Mahadeo Pursad,' Tindal Mahomed Salim, belonging to Hirjee Bhimsee, merchant of Bombay, and laden with a cargo of 50 candies of 'alsee' (linseed), valued at Rs. 1,250, did rob one candy and one maund of the said alsee (linseed), valued at Rs. 27.

The prisoners Nos. 3, 4, and 5 are also charged with criminal receipt of the above one candy and one maund of linseed, at the same time and place, knowing it to be stolen, or having evident grounds for believing it to be such. (Regulation XIV. Section XLI. Clause 1st, of 1827.)

Prisoners plead not guilty.

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Finding and Sentence by the Sessions Court.—In this case the prisoners Nos. 2, 3, 4, and 5 are charged with robbery by night, without force; and the prisoners Nos. 3, 4, and 5 are also charged in a second count with criminal receipt of stolen property.

The following appears to be a correct history of the proceedings in the case, as they are detailed in the evidence.

A Bhatya, Poonja Mowjee (witness No. 6), as he affirms, went to Panwell about four and a half months ago, and remained there for about two and a half months. During his stay he was twice a partner in trade transactions with prisoner No. 3 (Anund Wala). About two months ago he returned to Bombay, and, in about ten or fifteen days after his return, informed the Superintendent of Police that this Anund Wala was concerned in criminal practices at Panwell. He was in the habit, as Poonja alleged, of purchasing and shipping at that port certain quantities of grain, &c. on his own account, and afterwards completing his cargoes to the amount specified in the manifests which he took out, by filling into his own boats stolen goods from the boats of other traders.

The Superintendent of Police in Bombay, on receiving this information, gave Poonja a letter to the Superintendent of Police at Tanna, within whose jurisdiction these crimes were said to be committed.

On the same day, namely the 13th of February, Poonja Mowjee appeared before the Superintendent of Police at Tanna, and repeated his statement that Anund Wala was mixed up with boat robberies at Panwell. Poonja brought with him to Tanna two Mussulmans (boatmen and traders of Panwell), named Ali Saheb (witness No. 11) and Mahomed Ali (witness No. 12), who were to assist him in exposing the practices he denounced.

Captain Walker, on the same day on which he received the information, despatched the informants to Panwell

with a Naik (Mahomed, witness No. 7) and five Sepoys of the Tanna Police Corps, of whom three, Sheikh Enoos (witness No. 8), Sheikh Abdoola (witness No. 9), and Witoo Sukaram (witness No. 10), have given evidence before this Court. The party left Tanna at about 3 p. m., and reached Panwell at 11 o'clock at night.

According to the informers and the Police, their band of nine persons was separated, on reaching the Panwell Bunder, by the Naik, into two divisions. One of these, consisting of Witoo Sepoy (witness No. 10) with two other Sepoys of the Police and the two boatmen of Panwell (witnesses Nos. 11 and 12), was stationed in a fishing-boat belonging to Ali Saheb, which was anchored near the landing-place, and also near a laden prow, which was known to be that of prisoner No. 3 (Anund Wala). They were desired to keep a good look out, and if they saw any one stealing or receiving things out of the boats, at once to seize both givers and receivers. The other division, consisting of the Bhatya Poonja (witness No. 6), the Naik Mahomed (witness No. 7), and the two Police Sepoys, Sheikh Enoos (witness No. 8) and Sheikh Abdoola (witness No. 9), got into a small 'hooree,' and began moving cautiously about among the laden prows. The two Sepoys in this party were ordered to lie down and conceal themselves in the bottom of the hooree, the Bhatya and the Naik remained on the alert.

After the men in the hooree had been on the look out for some time, from half an hour to an hour, the Bhatya and the Naik, as they affirm, heard some one from the shore call out to a boatman to bring a little boat. The Bhatya recognised the voice of Anund Wala (prisoner No. 3), and both he and the Naik set themselves to watch the new comer attentively. This they did for a considerable time, and saw him moving about in his hooree among the laden boats. He was accompanied by three or four men. The Bhatya Poonja (witness No. 6) deposes

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that when the hooree of Anund Wala (prisoner No. 3) came alongside of a prow, the prisoner Anund used to call the Tindals or Khulasees—"Anything ready there?" and they used to give him down things into his boat. The Naik (witness No. 7) states that he saw the prisoner Anund throwing empty sacks into and receiving full sacks out of some of the boats; he saw him thus receive five or six sacks out of two or three boats. Both these witnesses testify that after a time the prisoner Anund Wala brought his hooree alongside of a prow, afterwards known to be that of which Mahomed Salim (witness No. 17) is Tindal, to the boatmen of which they heard him speak. According to Poonja (witness No. 6), he said that his boat was so full that he could take no more at that time, but that he would return after emptying his boat, adding that the Tindal should not go immediately. According to the Naik (witness No. 7), prisoner No. 3 (Anund) threw an empty sack into this prow, and also said, "My boat is very heavy, so I will go and come again;" and when one man in the boat answered, "Very well," the prisoner Anund told him, "If I do not come back before you sail, give my sack to my man." After this (as they allege) prisoner No. 3 (Anund) began to move off quickly in his hooree towards a boat which was lying at some distance, and which was afterwards known to be that of Sheikh Ibrahim (witness No. 13). The Bhatya Poonja (witness No. 6) then said to the Naik, "Now you must catch him immediately, or you will not get the things;" so they chased him. Anund (prisoner No. 3) made for the prow which was near, hastily threw into it the things he had with him, and got in himself with some of his companions. Just as this was done the Police boat came up. The Naik at once got into the prow; but in the confusion some one went off with the hooree of the prisoner Anund Wala.

The prisoners Nos. 3, 4, and 5 (Anund Wala, Bhugwunta, and Koosa), according to the Naik, were seized in Sheikh Ibrahim's (witness No. 13) prow; also Sheikh Ibrahim himself, and his two Khulasees, together with seven sacks of linseed and one bundle.

While the persons and things in this boat were being secured, the laden prow of Anund Wala (prisoner No. 3) was (or came) alongside of it. This second prow, with its Tindal, Dhondoo (witness No. 15), and two Khulasees, were accordingly seized by the Police along with the others.

On coming up to prisoner No. 3 (Anund Wala) in the boat of Sheikh Ibrahim (witness No. 13), the party of the Naik (witness No. 7) had hailed their companions who were in Ali Saheb's boat. These latter, therefore, also came quickly alongside of Sheikh Ibrahim's.

Placing the persons who had been apprehended and the two boats in charge of four Peons, the Naik (witness No. 7), with Anund Wala (prisoner No. 3), Poonja (witness No. 6), and the two Tindals (witnesses Nos. 11 and 12), and a Sepoy, Sheikh Abdoola (witness No. 9), next went off in a hooree after Mahomed Salim's prow, to which prisoner No. 3 (Anund) had said he would return for more sacks, and which had been kept in view. They overtook it near Nimbhora, about half a koss down the river. Poonja called to the men in the prow, "Where is Anund Mookadum's sack?" One of them answered, "It is ready." Upon this the Naik went and took possession of the sack, and brought the boat and the men who were in it (the Tindal, Mahomed Salim (witness No. 17), and three Khulasees, of whom two are Shurfoodeen (witness No. 19) and Mahomed Salia (prisoner No. 2), back to Panwell Bunder. He gave over the three prows which he had seized to the Joint Police Amuldar, and placed the crews and the suspected persons in confinement.

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Such is an abstract of the statements made by witnesses Nos. 6 to 12-as to the circumstances under which the prisoners Nos. 2, 3, 4, and 5 (Mahomed, Anund Wala, Bhugwunta, and Koosa) were apprehended, and as to the *prima facie* case against them. Further particulars have been brought to light, or alleged during the subsequent inquiries.

From the very nature of the circumstances, the evidence in this case is, in a great degree, tainted. The informer Poonja (witness No. 6) is a man of bad character, who has twice been in jail in Bombay. The two Mussulmans (witnesses Nos. 11 and 12) who accompanied him have given a most improbable account of the reason of their coming. The principal witness among the Police (the Naik, Mahomed, No. 7) and one of the Sepoys who was with him (witness No. 10, Vitoo) have recently been punished for a criminal assault at Tanna. The three Tindals (witnesses Nos. 13, 15, and 17) were originally apprehended on suspicion of complicity in these transactions, and their depositions are anything but consistent or satisfactory. This, however, was to be expected. Crimes arising out of a system of plundering, such as that of which this case is alleged to be an instance, can hardly be brought to light except by the instrumentality of persons who have themselves been concerned in similar iniquities. They will not be men of respectable character. But the knowledge of this need not lead to a general discrediting of all the assertions of such persons. It will, however, call for the utmost care and caution on the part of the trying Authority, in sifting, as far as possible, the true from the false in their evidence.

All the prisoners, then, being charged in the first instance with robbery, by night, committed at Panwell, on the prow of which Mahomed Salim (witness No. 17) is Tindal, it must be determined *in limine* whether

evidence has been adduced to prove that a robbery was then and there committed.

The crew of this prow ('Madadeo Pursaud') seems to have consisted of a Tindal and three Khulasees. They have all been examined. The Tindal (Mahomed Salim, witness No. 17) and one of the Khulasees (Mahomed Kasim, witness No. 18) affirm that they were absent from the prow between 8 p. m. and midnight, and there is no evidence to disprove this assertion, although the witness Poonja (No. 6) at first asserted that the Tindal was in the boat when the robbery is said to have occurred. The two witnesses (Nos. 17 and 18) add, that on their return to the boat when they had got her under weigh, their shipmates, Shurfoodeen (witness No. 19) and Mahomed (prisoner No. 2), declared to them that prisoner No. 3 had come on board in their absence, and by threats, had induced them to assist him in filling a sack or sacks (in this their evidence differs) with linseed from the cargo of the prow. The further statements of these two persons are not coincident. Mahomed Salim (witnesses No. 17), who gave his evidence in such a manner as to render it necessary that he should be placed in custody in order that he may be prosecuted for perjury, at first alleged that Shurfoodeen (witness No. 19) and Mahomed Salia (prisoner No. 2) told him that prisoner No. 3 (Anund) had obliged them to aid him in filling four sacks, of which he had taken away three, and was to return for one. This statement Mahomed Salim afterwards so contradicted and repudiated before this Court, that no weight can be allowed to his evidence, except in so far as his original testimony is confirmed by the Khulasees (witnesses Nos. 19 and 11), and professes to report a declaration made by them before they had been apprehended by the Police. The Khulasee, Mahomed Kasim (witness No. 18), is more consistent in his statements, but they are less comprehen-

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sive. His report of what he heard his two companions declare to the Tindal is, that Anund Wala (prisoner No. 3) had obliged them to fill with linseed out of the boat a sack which was then lying in the boat, and for which he (Anund) was to return. This witness has always deposed that he did not hear the Khulasees say to the Tindal that other three sacks had been taken away by the prisoner Anund. Mahomed Kasim's deposition, as far as it goes, and the statement which the Tindal originally made, are confirmed by the testimony of the approver, Shurfoodeen (No. 19), and by the confession of prisoner No. 2 (Mahomed Salia), admitted before this Court. Both these Khulasees (witness Nos. 19 and 11) declare that prisoner No. 3 (Anund Wala) came on board their boat on that night; that he induced them by threats to assist him in filling four sacks with the linseed which formed their cargo, and that he took away three sacks with him and promised to return for the fourth.

Postponing at present all consideration of the validity of this evidence as against prisoner No. 3 (Anund Wala), the Court is tied down to the conclusion that (when viewed in connection with the circumstances under which the fourth sack was reclaimed by the Police) it fully establishes that the approver Shurfoodeen (No. 19) and the prisoner Mahomed Salia (No. 2) had actively assisted in the wrongful removal, by some person or persons, of three sacks full of linseed from the boat in which they serve, at the time and place alleged in the charge.

Before finally pronouncing that prisoner No. 2 (Mahomed Salia) is thus involved in the guilt of robbery, it is necessary to consider whether or not the plea of intimidation which he has put forth can be admitted. This plea is supported by the statements of the approver. But while Shurfoodeen and Mahomed Salia both allege that they were intimidated by Anund Wala, they admit that he

was alone. They do not allege specific acts or threats of violence ; their statements are vague, and do not show what they mean by intimidation, nor how a single man, without means of offence, in a small harbour full of boats and within hail of the Customs Police, could so work upon their fears as to justify their compliance with his demands, or even greatly to extenuate their guilt. Without affirming, therefore, that the prisoner No. 3 (Anund Wala) may not have used some threats to the Khulasees on this occasion, the circumstances of the case afford no reason for believing, that his threats can have been of such a nature as to clear the Khulasees from the guilt of the robbery, in the commission of which, as they admit, they became active instruments. The prisoner Mahomed Salia (No. 2) is convicted accordingly.

But the evidence which is thus valid against Mahomed Salia (prisoner No. 2) is not in all respects equally admissible against Anund Wala, (prisoner No. 3). This latter prisoner has made no confession, and his guilt therefore must be independently established.

The prisoner No. 2 (Mahomed Salia) has named prisoner No. 3 (Anund Wala) as the chief perpetrator of the robbery ; but his allegation is not evidence against his fellow-prisoner. Is this prisoner (No. 3), then, certainly connected with this crime by other and valid evidence ?

It is proved that a robbery of sacks of linseed was committed from the boat named in the charge at the time and place described. It is affirmed by the witness No. 6 (Poonja) that about the same time he heard and recognised the voice of prisoner No. 3 (Anund), in his hooree alongside of the same boat, inquiring for goods. It is affirmed by the Naik, Mahomed (witness No. 7), that he actually saw this prisoner alongside of that boat at that time. And although the Court receives this statement with many misgivings (for it is

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hardly reconcilable with the statements of the two Khulasees), nevertheless it is possible that the Naik may thus have seen the prisoner. Both these witnesses (Nos. 6 and 7) depose that they then heard the prisoner Anund call out that his hooree was full, so that he could then take no more at the time, but that he would come or send to take the rest. Prisoner and the Police closely chased the said prisoner from the said boat to the prow of Sheikh Ibrahim, into which he had just time to throw a number of sacks, against the will of the Tindal, when the things and he himself were seized there. The witnesses (Nos. 11 and 12) testify that the pursued and the pursuing boats passed close to them, and that in the former they recognised prisoner No. 3 (Anund) by his voice. Some of the sacks then seized were, on the testimony of approver (No. 19), like those into which he had helped to fill the linseed robbed from the boat, and it is in evidence that the linseed in these sacks is of the same description as that with which the boat was laden. It is proved, moreover, that in consequence of their having heard the prisoner (No. 3) promise to come or send back to this boat for a sack which he had left there, the Police (after they had seized him) followed the boat, which they identified, and, on overtaking it, called out for Anund's sack, when some one answered that it was ready, and surrendered it to them. These statements and circumstances, taken in connection with the unsuccessful attempt of prisoner No. 3 (Anund) to show that he had previously hired and partially loaded Sheikh Ibrahim's boat (in which he was seized), his begging Sheikh Ibrahim just before his seizure to let him empty his goods into his boat as the Government people were astir, and his offer of money to him for permission to do so, established, to the satisfaction of the Court, that the prisoner had been alongside of the prow 'Madhow Pursaud' at the time of the robbery, and that he was

endeavouring to make off with goods stolen from her when he was seized by the Police. The conclusions thus arrived at being confirmed by the testimony of the approver, Shurfoodeen (No. 19), the criminality of Anund Wala is to this extent undoubted.

But the approver goes further than this. Like the prisoner Mahomed Salia, he declares that prisoner No. 3 was himself the chief agent in the robbery. He affirms that the prisoner Anund took an active part in filling the sacks, in shifting them to the side of the prow, and in getting them down into his hooree. As, however, the confession of Mahomed Salia is not evidence against his fellow-prisoner, so the evidence of the pardoned accomplice can be allowed to operate against him only in so far as it is corroborated by other witnesses or circumstances. Some degree of corroboration (as to this direct charge of participation in the actual robbery) would have been furnished by the statements made on this point to their comrades by the Khulasees (witnesses Nos. 19 and 11) before they were seized. But their fellow Khulasee (witness No. 18) states that he did not hear any declaration on this subject; and the gross prevarications of the Tindal (witness No. 17) have deprived his statements of weight altogether. Corroboration, therefore, of the allegation of the approver on this head must be sought elsewhere.

Now, it does not certainly appear that there is other direct evidence of the prisoner Anund's having himself gone up into the prow, or having aided in filling the sacks, or in shifting them to the side for lowering into his hooree. But neither is it necessary to a conviction that all these facts should be proved against him; and the statement of the approver, Shurfoodeen (No. 19), as to the participation of Anund Wala (prisoner No. 3) in that act, which of itself will constitute him a principal in this robbery, namely, that he and his two Hamals were actually engaged in taking the sacks down into

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the hooree, and so removing them from the boat, of the cargo whereof they formed a part, is strongly corroborated by the circumstances of the case. Not only do the two witnesses, Poonja (No. 6) and the Naik (No 7), depose that they saw the prisoner Anund and his men thus taking down sacks from other boats, but from the appearance of the sacks it is not believed that they could have been lowered into the hooree otherwise than in the manner alleged by Shurfoodeen, viz. with the active aid of those below. These were the prisoner Anund (No. 3) and his Hamals; and by thus actively aiding in the secret and wrongful removal of linseed from the boat in which it had been stowed, and in at once carrying it off from thence in the hooree, the prisoner No. 3 has made himself guilty as a principal in the robbery which then and there occurred, and he is convicted accordingly.

This prisoner (Anund Wala), in his defence, has alleged that witness Poonja is at enmity with him, for a reason which he stated. The Court does not deem it necessary to enter upon that inquiry, as the conviction of this prisoner does not rest upon the unsupported testimony of Poonja, and the facts of the case would not be altered by any proof of enmity. The prisoner's counsel has also pointed out that whereas the approver (Shurfoodeen) alleged that he (Anund) had come alongside his boat at 10 P. M., there would, in fact, have been no water there at that hour. The statement of this witness as to the time of prisoner's coming, however, was very vague, while his detail of the circumstances which attended his coming was satisfactory. The Court, therefore, does not attach much weight to this objection, especially as the prisoner's own Tindal (Dhondoo) states that he got his prow afloat at about 11 P. M. The prisoner's counsel further stated that prisoner had accounts of his trade dealings with several merchants of Panwell, whom he named, and suggested that the Court

might call for their books and satisfy itself. As, however, he did not himself call for these documents, nor state what material fact was to be proved from them, the Court did not deem it necessary to take steps for their production. Lastly, the prisoner's Vakeel stated that two of the Police Peons who had been engaged in this seizure had deposed in prisoner's favour before the Assistant Magistrate. But these persons also he declined to call on his behalf, nor did he urge the Court to call them unless it desired to do so; and as the points to which he supposed that they could testify were not described, they have not been required to attend.

It remains to consider how far the proof is convincing as against prisoners Bhugwunta (No. 4) and Koosa (No. 5). The evidence against them is comparatively indirect, but it is strong. It is in evidence, and they admit it, that they were Anund Wala's servants, who were generally employed in loading his boat (see No. 15). They had not been in Sheikh Ibrahim's boat before the arrival of Anund Wala (Nos. 13 and 14). They were seized along with him; one of them (prisoner No. 5) in that boat, and the other (prisoner No. 4) while escaping from it into Dhondoo's (Nos. 7 and 9). Two men dressed as they were (when seized) were seen in the hooree along with Anund Wala while it was chased by the Police (Nos. 6, 7, and 8). No other men so dressed were apprehended or seen in the prow; and as regards the prisoner Koosa (No. 5), one of the Khulasees of Sheikh Ibrahim's boat (Abdool Rehiman, witness No. 14) declares that he heard Anund Wala, while the sacks were being tumbled into their boat, calling out, "Koosa, Koosa! quick, quick!" The approver Shurfoodeen (No. 19), also, without identifying these two men personally, deposes that the two Murathas who were in prisoner Anund's hooree were actively engaged in taking down the sacks at the time of the robbery. It

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is true, as regards the prisoner Bhugwunta (No. 4), that the witness Dhondoo (No. 13) affirms that he (Bhugwunta) was in his (Dhondoo's) boat that evening, that he did not leave it, and that they had not reached Sheikh Ibrahim's boat when the seizures were made. But the Court attaches no weight to these statements, not because this witness (Dhondoo) is the hired Tindal of Anund Wala (prisoner No. 3) and a fellow-servant of Bhugwunta (prisoner No. 4), but because his testimony is directly opposed to that of other witnesses, was given in a most unsatisfactory manner, with an evident desire to screen the prisoners Nos. 3 and 4 (Anund Wala and Bhugwunta), and with very little regard to consistency, as his answers to questions put to him by the Court and recorded at the close of his deposition sufficiently show. The two prisoners, Bhugwunta (No. 4) and Koosa (No. 5), are therefore likewise convicted of the robbery with which they are charged.

Under the circumstances above detailed I convict the prisoners Nos. 2, 3, 4, and 5 (Mahomed Salia, Anund Wala, Bhugwunta, and Koosa) of robbery by night, without force, as set forth in the first charge of the indictment, and sentence them the following punishments:—

Prisoner No. 2 (Mahomed Salia wulud Sheikh Amlia) to be imprisoned and kept to hard labour for the period of seven (7) years. Prisoner No. 3 (Anund Wala Mookadam) to be imprisoned and kept to hard labour for the space of seven (7) years, and further to pay a fine of twenty-five (25) rupees (under Act XVI. of 1850); the said fine to be levied, if necessary, by the distress and sale of his goods, and the amount realised to be paid to Bhimsee Rutunsee (witness No. 1) as some compensation for the loss he has incurred by leaving his trade to attend the trial of this case. Prisoners No. 4 (Bhugwunta bin Malajee) and No. 5 (Koosa bin Witoo Sinda) are

sentenced each to be imprisoned and kept to hard labour for the period of five (5) years. All the prisoners on their release are to be forwarded to the Magistrate for precautionary measures. (Regulation XIV. Section XXXVI. Clause 4th, of 1827.)

* * * * *

The witness No. 17 (Mahomed Salim wulud Sheikh Ismail) is to be transmitted to the Magistrate, with his original deposition, and copies of the depositions of witnesses No. 18 (Mahomed Kasim), No. 19 (Shurfoodeen), and of the confession of the prisoner No. 2 (Mahomed Salia) that refer to him, in order that he may be committed to stand his trial for perjury.

As one of the witnesses in this case (No. 17) and three of the prisoners (Nos. 3, 4, and 5, Anund Wala, Bhugwunta, and Koosa) have alleged that some of the Police who were in charge of them (or concerned in their apprehension) urged them (or the witnesses against them), by promises of liberation, to make such statements as might ensure the conviction of some of the prisoners, and as it appears that more than one of those who were present as witnesses before this Court had been held in restraint for several days after their arrival in Tanna under custody of the Police, it appears to be necessary that extracts of the statements of the said witnesses and prisoners, and of the answers of the Police to questions put to them before the Court on this subject, should be transmitted to the Magistrate, in order that he may take steps to ascertain whether or not the conduct of the Police, or of any of them, in this instance, has been as censurable as is here alleged.

In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—I do not see cause to interfere as regards the conviction in the case. It appears to me, however, that the sentence is disproportionately heavy. The offence is not aggravated by violence, and I think the imprisonment

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Puisne Judge.

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might be mitigated to four years in the case of Anund, and two years in the case of the other prisoners.

Minute by Mr. Keays.—I entirely concur in the view taken of this case by Mr. Erskine, and would confirm both conviction and sentence against the whole of the prisoners. To enter into detail would be but to reiterate arguments used by Mr. Erskine in his very able finding. There is one point, however, which he does not appear to have noticed, which is, that while these Police Peons were with the Naik in the boat, they do not say that they saw anything, in short, do not corroborate the Naik's and Batya's statement that they saw prisoner Anund receive the linseed out of the complainant's boat. Now Mr. Erskine has questioned the character of the Naik's evidence, because he was lately accused of and convicted of an assault at Tanna, and I think the fact of the Sepoy's silence on the point I have mentioned shows that the case has not been got up, and gives greater weight to the Naik's and Batya's evidence. At the suggestion of Mr. Harrison I consent to mitigate the sentence, however, to four years' imprisonment against Anund, and two years' against all the other prisoners.

Resolution of the Sudder Foujdaree Adawlut.—The Court mitigate the sentence on Anund Wala to four years' imprisonment with hard labour, and the fine, as ordered by the Acting Session Judge.

They mitigate the sentence of the other three prisoners (Mahomed Salia wulud Sheikh Amlia, Bhugwunta bin Malajee, and Koosa bin-Vitoo Sinda) to two years' imprisonment with hard labour.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

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KONKUN.

[Case No. 16 of the Calendar of the Konkun Sessions Court for 1857. Committed by the Acting Hoozoor Deputy Magistrate, DADOBA PANDURUNG, on the 4th April 1857. Tried by the Acting Session Judge, C. J. ERSKINE, on the 11th May 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Prisoner.—Mahomed Salim wulud Shaik Ismael, Mussulman; aged 62.

Perjury.

Charge.—Perjury (Regulation XIV. of 1827, Section XVI. Clause 1st); in having, on the 26th March 1857, (corresponding with Chuitru Shood 1st, Shuké 1779,) in Kusba Tanna, Talooka Salsette, Zillah Konkun, wilfully and falsely stated as follows, on solemn affirmation, before C. J. Erskine, Esquire, Acting Session Judge, in reply to a question by the prisoner No. 2, during the trial of a case (No. 13 of the General Calendar of 1857) in which the prisoners were charged with robbery by night, without force, viz :—

“The prisoner did not tell me the above [viz. that Anund Wala had taken three sacks of linseed from his (prisoner’s) prow] either at Panwell or anywhere else. After we arrived at Tanna and were confined, a Jemedar one day took me out of the room, and then I went with Poonja Mowjee towards the bazar. On the road Poonja said to me, ‘Say that Anund took from your boat by force three or four sacks of linseed, and then I will get you released.’ In consequence of his injunctions I deposed before Captain Walker that prisoners Nos. 1 and 2 had told me that Anund Wala had filled and carried away three sacks of linseed by force.”

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—On the above evidence and confession of the prisoner he is convicted of perjury; in having, on the 26th March 1857, (corresponding with Chuitru Shood 1st,

C. J. Erskine,
 Acting Session
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Shuké 1779,) in Kusba Tanna, Talooka Salsette, Zillah Konkun, wilfully and falsely stated as follows, on solemn affirmation, before C. J. Erskine, Esquire, Acting Session Judge, in reply to a question by the prisoner No. 2, during the trial of a case (No. 13 of the General Calendar of 1857) in which the prisoners were charged with robbery by night, without force, viz :—

“The prisoner did not tell me the above [viz. that Anund Wala had taken three sacks of linseed from his (prisoner’s) prow] either at Panwell or anywhere else. After we arrived at Tanna and were confined, a Jemedar one day took me out of the room, and then I went with Poonja Mowjee towards the bazar. On the road Poonja said to me, ‘Say that Anund took from your boat by force three or four sacks of linseed, and then I will get you released.’ In consequence of his injunctions I deposed before Captain Walker that prisoners Nos. 1 and 2 had told me that Anund Wala had filled and carried away three sacks of linseed by force.”

The statement thus made by prisoner related to a point material to the issue of the case above referred to, as the prisoners in that case, including Anund Wala, were accused of having been concerned in the robbery of three sacks of linseed from the prow of the prisoner, Mahomed Salim wulud Sheikh Ismail.

Under these circumstances, the Court passes the following sentence on the prisoner :—

That you, prisoner Mahomed Salim wulud Sheikh Ismail, be imprisoned with hard labour for the period of two (2) years. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut. (Regulation XIV. Section XVI. Clause 2nd, of 1827.)

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence confirmed.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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AHMEDABAD.

[Case No. 27 of the Calendar of the Ahmedabad Sessions Court for 1857. Committed by the Assistant Magistrate, E. H. PERCIVAL, on the 8th May 1857. Tried by the Session Judge, A. B. WARDEN, on the 13th May 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

* *Prisoner.*—Kupa Juma, Kolee, aged 20.

Wilful Murder.

Charge.—Wilful murder; in having, on or about Tuesday, 5th May 1857, (corresponding with Wuishak Shood 12th, Sumvut 1913,) during the night-time, in the limits of Chagial Village, Dashrokee Talooka, Ahmedabad Zillah, without justifiable or extenuating cause, deprived of life Jaga Ghela, by shooting an arrow at him, and inflicting a wound in the breast, from the effects of which the said Jaga Ghela died there and then; prisoner thereby rendering himself amenable to the provisions of Regulation XIV. Section XXVI. Clause 1st, of 1827.

Prisoner pleads not guilty.

Finding and Sentence by the Sessions Court.—The Inquest Report, No. 3; proved by the evidence of witnesses Nos. 1 and 2 (Chalajee and Bajee), shows that the deceased died from the effects of a wound inflicted with an arrow. From the evidence of witness No. 4 (Bae Dhani), the widow of Jaga Ghela, it appears that, on the night in question, she was sleeping inside her house, and her husband (the deceased) was sleeping out in the verandah. Hearing some one abusing her husband, she went out to see what was the matter; she was just in time to see the prisoner Kupa discharge an arrow at her husband, which lodged in his chest; he pulled it out, and immediately fell down dead. Her husband's brother, who was near at hand, seized the prisoner. The evidence of the witnesses Nos. 5, 6, 7, 8, 9, and 10 (Jita, son of the deceased; Jawere and Ganesh, brothers of

A. B. Warden,
Session Judge.

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Wilful Murder.

the deceased ; Jura, a relative of the deceased ; Gela, and Jaimul) proves that they saw the prisoner at the bar approach the cot on which the deceased Jaga was sleeping, and abuse him for allowing his cattle to destroy his (prisoner's) field ; and on the deceased getting up and remonstrating with him, the prisoner discharged an arrow at the deceased, which lodged in the chest : the deceased having plucked it out, fell down dead. The prisoner was immediately seized by one of the witnesses, and on the arrival of the Mookhee, was handed over to him. The prisoner confessed before the Foujdar, but before the Assistant Magistrate and this Court has retracted his confession. The reason assigned by the prisoner for the perpetration of the deed was, that some cows belonging to the deceased had repeatedly entered his field and damaged his crops ; in the night in question he again found them in his fields ; he drove them out, and repaired to the ' mella' in which the deceased resided, and remonstrated with him for letting his cattle wander about, on which the deceased abused him ; he thereupon got into a rage and discharged an arrow at the deceased. The evidence of the witnesses proves that the deceased used to keep his cows in a distant village, and that on the night in question the deceased's buffaloes were tied up ; it is, therefore, quite clear that the cattle which were driven by the prisoner out of his field did not belong to the deceased. The prisoner has either told a falsehood about the cattle, or else he mistook some one else's cattle for the deceased's. From the prisoner's confession it would appear that he discharged two arrows at the deceased, but none of the witnesses saw him discharge more than one, and a second was not found.

Under the above circumstances, the Court finds the prisoner guilty of wilful murder ; in having, on or about Tuesday, 5th May 1857, (corresponding with

Wuishak Shood 12th, Sumvut 1913,) during the night-time, in the limits of Chagial village, Dashrokee Talooka, Ahmedabad Zillak, without justifiable or extenuating cause, deprived of life Jaga Ghela, by shooting an arrow at him and inflicting a wound in the breast, from the effects of which the said Jaga Ghela died there and then.

After taking into consideration the nature of the offence proved against you, prisoner Kupa Juma, and the extent of punishment allowed for the same by the provisions of Regulation XIV. Section XXVI. Clause 4th, of 1827, the sentence of the Court is that you, prisoner Kupa Juma, be hanged by the neck until you be dead, at the usual place of execution at Ahmedabad. This sentence is, however, subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

In the Sudder Foujdaree Adawlut ; Minute by Mr. Keays.—The charge in this case is established on the clearest evidence, and there cannot be a doubt regarding the prisoner's guilt. The only question is, whether we are to attend to the suggestion of the Session Judge, to commute the punishment awarded to transportation for life. The ground on which this recommendation to mercy has been made is the youth of the prisoner. From the record I find that he has attained the age of twenty years, and must have been well aware of the result which must have ensued from his unjustifiable act, and I am not inclined to alter the sentence.

Resolution of the Sudder Foujdaree Adawlut.—Conviction and sentence confirmed.

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Wilful Murder.

R. Keays, Puisne
Judge.

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DHARWAR.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Cases Nos. 27 and 28 of the Calendar of the Dharwar Sessions Court for 1827. Committed by the Second Assistant Magistrate, H. N. B. ERSKINE, on the 4th March 1857. Tried by the Session Judge, A. W. JONES, on the 9th April 1857. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut.]

Murder ; and Se-
rious Assault.

Prisoner in Cases Nos. 27 and 28.—Holia bin Soobana, Dher, aged 30.

Charge in Case No. 27.—Under Regulation XIV. Section XXVI. Clause 1st, of 1827, murder ; in having, on the night of Thursday, the 8th January 1857, (corresponding with Poush Shood 13th, Shuké 1778,) in the Village of Herekoodee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, purposely, and without justifiable or extenuating cause, deprived of life Sidlia bin Satya, by striking him on the face with a wooden club or mallet, inflicting wounds from the effects of which the said Sidlia died the next day.

In Case No. 28.—Under Regulation XIV. Section XXVI. Clause 1st, and Section I. Clause 2nd, attempt at murder ; in having, on Thursday the 8th January 1857, (corresponding with Poush Shood 13th, Shuké 1778,) in the village of Herekoodee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, attempted to murder his wife Ranee, by striking her on the head and other parts of her person with a mallet or wooden club.

Secondly.—With serious assault, under Regulation XIV. Section XXIX. Clause 1st, of 1827 ; in having, on the aforesaid date, in the abovenamed village of Herekoodee, assaulted his wife Ranee, and with a wooden club inflicted on her head and other parts of her person some serious wounds.

Finding by the Sessions Court in Case No. 27.—Prisoner is charged with murder, and pleads not guilty.

It is shown, however, that on the night of the 8th January he sent two persons, witnesses Yellee and another, to the Police Patel, to say that he had killed the deceased and his wife, in consequence of having found them sleeping together in his house; and the Police Patel shows, that on going to the prisoner's house, he found him sitting outside of it, and that, on questioning him, he admitted having killed the deceased and his wife as above stated, and that he also gave up the mallet before the Court as the weapon with which he had struck them. The wounds of the deceased were examined, and, as he died just as the morning of the 9th January broke, an Inquest was then held on the body, which was proved and recorded before the Court. In this it is shown that there were two severe wounds on the forehead and nose of the deceased Sidlia, and that it was from these wounds that he died. •

The prisoner made a confession before the Police Amuldar, detailing these facts, and declaring that he knew of the intrigue between the deceased and his wife, and that he was on the watch to catch them together, and that, having done so, he struck them both with a heavy mallet on the face and head, intending to kill them. Before the Court he denied so much of this statement as showed that he intended to kill these two persons, and declared he had only struck the deceased one blow. Before the Assistant Magistrate he admitted having struck these persons, but declares he did it intending to awake them.

There is therefore no doubt the deceased was killed by the prisoner; but, considering the circumstances under which he did so, there is great excuse to be made for him; but how far this should affect the case the Session Judge leaves to the superior Court, and the prisoner is convicted of murder; in having, on the night of Thurs-

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Murder; and Se-
rious Assault.
H. N. B. Erskine,
Second Assistant
Magistrate.

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Murder ; and Se-
rious Assault.

day, the 8th January 1857, (corresponding with Poush Shood 13th, Shuké 1778), in the Village of Herekoodee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, purposely, and without justifiable or extenuating cause, deprived of life Sidlia bin Satya, by striking him on the face with a wooden club or mallet, inflicting wounds from the effects of which the said Sidlia died the next day.

The sentence against the prisoner is, however, postponed, as there is another charge against him.

Finding and Sentence by the Sessions Court in Case No. 28.—The prisoner is charged with attempt to commit murder, and pleads not guilty ; and with serious assault, and pleads guilty.

This is the same case as that just decided. The complainant in this case was struck at the same time and in the same place as Sidlia, her paramour, and by the prisoner also. He admits having struck her, but declares he did not intend to kill her. Except that the club used is a very heavy one, and makes a most dangerous weapon, there is nothing to show whether he really did intend to kill her or not ; and under the circumstances the Session Judge considers the prisoner should be acquitted of attempt to commit murder, and convicted of serious assault ; in having, on Thursday, the 8th January 1857, (corresponding with Poush Shood 13th, Shuké 1778,) in the Village of Herekoodee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, assaulted his wife Ranee, and with a wooden club inflicted on her head and other parts of her person some serious wounds.

And, after considering the nature of the crime committed in this case and in case No. 27, and the punishments assigned thereto in Regulation XIV. Section XXVI. Clause 4th, and Section XXIX. Clause 1st, of 1827, the following sentence is passed.

That you, Holia bin Soobhana, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

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In the Sudder Foujdaree Adawlut; Minute by Mr. Harrison.—The facts established in these cases are that the prisoner, who suspected his wife Ranee of intriguing with the deceased Sidlia, and watched for an occasion of finding them together, saw the latter go into his house on a night he had gone out to beat the drum at a festival, and followed him after an interval. That, finding Sidlia and Ranee sleeping in his house near to each other, and having, therefore, evident ground for believing they had had criminal intercourse, he took up a mallet that was in the house and struck them both with it,—Ranee seriously, and Sidlia so severely as to cause his death a few hours later. The prisoner has pleaded that he did not intend to kill; but this will not avail, because the blow was struck with an instrument *likely* to cause death, as it did *actually*. Neither can the act be held the result of sudden passion, unpremeditated; grievously provoked, and therefore excusable. It must be considered, however, in favour of the prisoner, that it does not appear he took any lethal weapon with him, but on reaching his house, and finding his suspicions as to Sidlia's presence realised, he seized the mallet lying at hand and struck the guilty parties. The provocation was great, and viewing that in connection with the act itself, I consider that the prisoner should be convicted of culpable homicide, and sentenced to a term of imprisonment with hard labour for that and the serious assault which he committed on the person of Ranee.

Murder; and Serious Assault.

W. H. Harrison,
Puisne Judge.

Minute by Mr. Keays.—I concur with Mr. Harrison, and consent to mitigate the punishment to imprisonment with hard labour for a period of seven years.

R. Keays, Puisne Judge.

Resolution of the Sudder Foujdaree Adawlut.—The prisoner is convicted of culpable homicide (in Case No.

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Murder, &c.

27), and the conviction of serious assault recorded against him in Case No. 28 of the Dharwar General Calendar for 1857 is confirmed; and he is sentenced to seven years' imprisonment with hard labour.

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POONA.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { WILLIAM HENRY HARRISON, }

[Case No. 7 of the Calendar of the Poona Sessions Court for 1857. Committed by the Deputy Magistrate, NANA MOROJEE, on the 7th March 1857. Tried by the Acting Session Judge, C. M. HARRISON, on the 19th, 21st, and 23rd March 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.]

Attempt to Com-
mit Murder.

Prisoner.—Teo-Ah-Lay, Chinaman, aged 29.

Charge.—Attempt to commit murder (under Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 2nd); in having, under date 16th January 1857, (Poush Wnd 6th, Shuké 1778,) in the Criminal Jail in the City of Poona, in view to deprive the complainant Tang-Chong-Heng of life, without any justifiable or extenuating cause, struck him with a large sharp iron nail on the abdomen, the left cheek, and other parts of the body, so as to inflict five several wounds thereon.

The prisoner pleads not guilty.

C. M. Harrison,
Session Judge.

Finding and Sentence in the Sessions Court.—The prisoner is charged with attempt to commit murder, and pleads not guilty.

He as well as the complainant are Chinese convicts, the former under sentence of transportation to Bombay for fourteen years, the latter for life. They were at Tanna together in the Jail there, and seem to have been in the habit of quarrelling and abusing each other from that time. On the evening of the 16th January last they were, with other Chinese convicts, locked up as usual for the night, and the complainant states that he

was lying down on his bedding at about 6 P. M., and had fallen asleep, when the prisoner came and struck him with some instrument which, it being dark, he could not see, and wounded him in the abdomen, on the left arm, left jaw, left side of the neck, and back. He says that he cried out, and two other convicts came and separated them, and that he then became insensible, and does not know what occurred.

The two convicts who separated them confirm this statement, and the Deputy Jailor says, that shortly after locking up the Chinese convicts he heard a disturbance in the apartment in which they were, and returning found the complainant with five wounds on his person, and the prisoner with a long nail in his hand. The nail he immediately secured, and had the complainant removed to the hospital.

The principal wound was found to be that in the abdomen, which is described by the Civil Surgeon as having passed right through the complainant's body, and for three days to have rendered his recovery extremely precarious. He was detained in the hospital for six weeks.

The prisoner, before the Deputy Magistrate, made a full confession, which has been proved and recorded for the prosecution, and it is fully corroborated by the abovementioned evidence. In it he says, "I and the complainant have been at enmity ever since we were in the Tanna Jail; the complainant was always saying to me, 'You are a life-sentenced convict,* I shall kill you.' The complainant was under sentence of fourteen years' imprisonment, and was always abusing me. Therefore, as he intended to murder me, I thought it better to kill him, and took from the works going on in the Jail the iron nail now present, and concealed it

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* This is a mistake. The prisoner is under sentence of fourteen years' transportation, and the complainant of transportation for life.—
Session Judge.

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mit Murder.

at 4 p. m. in the place where we sleep. I assaulted and wounded the complainant at about 6 o'clock in the evening. The same day he had abused me. No other quarrel had taken place."

The nail is an iron one, about seven inches long, with a square head; immediately beneath which string has been wound, to form a handle and give a good grasp. The Deputy Jailor deposes it was not with the prisoner when he was searched before being locked up, so it is probable that he took the opportunity of concealing it (as he says) prior to being searched and locked up. The premeditation this evinces, the instrument used, the situation and nature of the principal wound, and the evidence above recorded, leave no doubt in the Session Judge's mind that the prisoner did assault the complainant with intent to murder him, and he is therefore convicted of attempt to commit murder; in having, under date 16th January 1857, (Poush Wud 6th, Shuké 1778,) in the Criminal Jail in the City of Poona, in view to deprive the complainant Tang-Chong-Heng of life, without any justifiable or extenuating cause, struck him with a large sharp iron nail in the abdomen, the left cheek, and other parts of the body, so as to inflict five several wounds thereon.

[A true extract from the true copy of the extract from the Calendar of the Court of the Recorder of Singapore is read, and, having been proved as above, is recorded.]

From this it appears that, having been convicted of stealing in a dwelling-house to the value of Company's Rs. 50; second count, for receiving stolen goods, knowing the same to have been stolen, the prisoner, Teo-Ah-Lay, was sentenced to be transported to the Settlement of Bombay for fourteen years.

And, after maturely considering the nature of the offence, the measure of guilt attempted and committed, and the punishment provided for the same by Clause 4th,

Section XXVI. and Section I. Clause 2nd, of Regulation XIV. of 1827, the following sentence is passed :—

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That you, Teo-Ah-Lay, be hanged by the neck until you be dead, at the usual place of execution at Poona. Subject to the confirmation of the Judges of the Sudder Foujdaree Adawlut.

Attempt to Com-
mit Murder.

* * * * *

The prisoner in this case was, in the first place, committed by the Deputy Magistrate, Mr. Nana Morojee, to take his trial for a *simple assault*, and the case had again to be returned, the evidence of the Chinese witnesses having been taken on solemn affirmation.

* * * * *

With reference to the extract from the Court's proceedings forwarded to the Magistrate under date the 23rd ultimo, the Acting Session Judge has further to point out a mistake in the prisoner's confession taken before the Deputy Magistrate, wherein he is made to say that he is under sentence of transportation for life and the complainant for fourteen years, whereas the prisoner is under sentence of transportation for the latter period and the complainant for the former.

Resolution in the Court of Sudder Foujdaree Adawlut.—The conviction and sentence are confirmed, and the proceedings to be sent to Government, with an intimation that the Court would have sentenced the convict to transportation, if they had the power of prescribing the place to which he should be transported. They, therefore, lay the case before Government, with a suggestion that the sentence should be mitigated to one of transportation for life to Aden, if the execution of such a sentence be practicable.

Letter from the Registrar of the Sudder Foujdaree Adawlut to the Secretary in the Judicial Department.—A Chinese convict named Teo-Ah-Lay, undergoing, in the Poona jail, a sentence of fourteen years' transportation

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mit Murder.

to Bombay, passed upon him in June 1854 by the Recorder of Singapore, attempted, on the night of the 16th of January last, to murder a fellow-convict, also a Chinaman. He has been tried by the Session Judge of Poona, and sentenced to death.

The case having come before the Sudder Foujdaree Adawlut for confirmation, this Court would have been willing, while confirming the conviction, to have sentenced the prisoner to transportation for life; but as this sentence would have had the effect of sending him back to Singapore, whence he came, a measure manifestly to be avoided, the Court have had no option but to pass the extreme sentence, and to resolve to lay the proceedings before the Right Honorable the Governor in Council, with a recommendation that His Lordship in Council would be pleased to mitigate the sentence to one of transportation for life to Aden.

I have therefore been directed to request you will submit to His Lordship in Council the accompanying original proceedings (to be returned) of the Session Judge, with an extract from the proceedings of the Sudder Foujdaree Adawlut, and to suggest that the sentence may be mitigated as above, and the prisoner transported for life to Aden, should the execution of the sentence at that Settlement be practicable.

Reply from the Secretary in the Judicial Department to the Registrar of the Sudder Foujdaree Adawlut.—I am directed to acknowledge the receipt of your letter of the 28th April last, No. 887; handing up proceedings of the Session Judge of Poona, held on the trial of Teo-Ah-Lay, a Chinaman, sentenced to death.

In reply, I am directed to inform you that, in accordance with the recommendation of the Judges of the Sudder Foujdaree Adawlut, the Right Honorable the Governor in Council is pleased to commute the sentence of death recorded against the prisoner to transportation

for life to Aden, the Advocate General being of opinion that Government is competent to adopt that course.

The necessary orders for providing a passage for the convict have been issued.

In the Sudder Foujdaree Adawlut.—Warrant to be issued.

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POONA.

Attempt to Com-
mit Murder.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Cases Nos. 69 and 70 of the Ahmednuggur Magistrate's Calendar for October 1856. Tried by the Acting Hoozoor Deputy Magistrate, RAMCHUNDER AMRIT DUGLE, on the 23rd, 24th, 25th, and 27th October 1856. Confirmed by the First Assistant Magistrate in Charge, F. S. CHAPMAN, on the 4th and 11th November 1856. Reviewed by the Session Judge, J. W. WOODCOCK, on the 23rd January 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, for consideration, by the Session Judge.] AHMEDNUGGUR.

Prisoner in Case No. 69.—Ambadas Seetaram Soleh, Brahmin, aged 33.

No. 70.—Narayan Seetaram Soleh, Brahmin, aged 24.

Charge in Case No. 69.—Using abusive language and insolence towards a Police Officer while in the discharge of his official duty (Regulation XII. of 1827, Section XXIII.); in having, on 10th October 1856, (corresponding with Ashwin Shood 11th, Shuké 1778,) at Nuggur, Zillah Ahmednuggur, made use of expressions to the following effect towards the Foujdar of Nuggur, when he ordered two individuals engaged in an affray (of whom one was prisoner's brother) to be taken to his office, namely:—

“ I don't care; if he (the Foujdar) is taking him (prisoner's brother) away, let him do so; what can the Foujdar do? If Rs. 500 fine is demanded, I will pay it; he (Foujdar) cannot pluck * * * * *; I will see the Foujdar (meaning be revenged of him).”

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Ramchunder Amrit Duglé,
Acting Hoozoor Deputy Magistrate.

Prisoner pleads not guilty.

Charge in Case No. 70.—Assault (Regulation XIV. of 1827, Section XXIX. Clause 2nd; in having, on 10th October 1856, (corresponding with Ashwin Shood 11th, Shuké 1778,) at Nuggur, Zillah Ahmednuggur, assaulted one Dorabjee Rustomjee, Parsee, while ascending the steps of the house of one Dosabhaee, shopkeeper.

Prisoner pleads not guilty.

Finding and Sentence by the Acting Hoozoor Deputy Magistrate in Case No. 69.—It is proved beyond doubt, by the evidence of all the witnesses for the prosecution, that prisoner gave utterance to the most insolent and abusive expressions towards a respectable Officer of Police, before a large assembly of people, while that Officer was actually discharging his duty, although prisoner denies *in toto* having said anything to him. Prisoner's overbearing conduct on this occasion plainly shows that he considers himself under no restraint of the law, or that he is beyond the control of its executive or administrative Officers.

The Foujdar has to exercise his control over the whole city of Ahmednuggur, containing a population of upwards of 28,000 souls, and if his authority is trifled with, as prisoner has done in the present instance, he will never be able to discharge his duty satisfactorily, or keep the people in awe.

The Acting Deputy Magistrate is of opinion that the Police are the mainspring of the system which works for the security of life and property, and therefore even the lowest of its members should be respected, to say nothing of the heads thereof.

, It may easily be imagined what lesson the people, amounting perhaps to some hundreds, would have learned from the insolent behaviour of prisoner, and of the most filthy expressions he made use of towards the Foujdar in their presence; and if such a behaviour is passed over

unnoticed, or without any serious notice, the Acting Deputy Magistrate is afraid it would leave on the minds of the community a very low impression of the authority of the Fōujdar, and the prisoner would return home in triumph.

Prisoner is 'goomashta' (agent) of a wealthy banker in the city, and it appears from the evidence adduced in the case that he considers fine to be no punishment to him; and therefore the Acting Deputy Magistrate would award him imprisonment provided by the law under which prisoner has been arraigned. But, considering that this case has sprung up from that of assault committed by prisoner's brother on a merchant, which is proved against him, and he is already undergoing the sentence of imprisonment, it is no less humiliating to prisoner than if he were himself incarcerated; and as this is, the Acting Deputy Magistrate believes, the first time that prisoner misbehaved himself towards a Police Officer, the Deputy Magistrate hopes prisoner will take a good warning from what has befallen his brother.

However, the Acting Deputy Magistrate would not let prisoner go unpunished for the offence of which he has been proved to be guilty; he would impose upon prisoner the full penalty of the law in the shape of fine.

It will be observed that the evidence adduced by prisoner in his defence totally failed, to say the least of it.

On the above grounds, prisoner is convicted of the offence specified in the charge, and, under Section XXIII. Regulation XII. of 1827, sentenced to pay a fine of twenty and a quarter ($20\frac{1}{4}$) rupees, the computed value of his one month's income, or to suffer one (1) month's imprisonment without labour.

Finding and Sentence by the Acting Hoozoor Deputy Magistrate in Case No. 70.—By the evidence for prosecution it has been fully proved that prisoner first of all

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not only gave cause for provocation to the complainant, but assaulted him; a mere shove, or even rushing towards a person with intent to arrest his progress unprovoked and unauthorised is, in the opinion of the Acting Deputy Magistrate, an assault in every sense of the word. Prisoner himself confessed before the Acting Deputy Magistrate, in his statement dated 13th October 1856, that he did not go with his brother Ambadas, but he went by order of his master, Shahoo Oodaram Dangeh, to see if any property remained *after* attachment, that it might be seized, according to Section VIII. Regulation IV, of 1827, by presenting a petition to the Moonsiff and obtaining his order thereon, and the Moonsiff, Bhao Saheb (Azum Ramchunder Jupardhun ?), had promised to issue such an order.

If prisoner, according to his own showing, went to Dosabhaee's shop only to execute his own master's order, he was none of the party who had gone thither to attack Dosabhaee's property, and consequently it follows he had no authority to prevent people from entering the shop.

• If there be any truth in the statement of prisoner, it is very remarkable that a Moonsiff should be privy to, or offer his counsels for seizing other men's property before any formal application is made to him.

The evidence of the witnesses adduced by prisoner in his defence tends to strengthen rather than to clear prisoner of the charge brought against him. Every one of these witnesses deposes to prisoner (and he himself confesses) having been an aggressor in provoking a breach of the peace. The statement of prisoner, that he *did not touch complainant*, is contradicted by his own witnesses (Nos. 6 and 7), who depose to his having caught complainant, and the Acting Deputy Magistrate saw with his own eyes that one or two of the 'kussas' (strings) of complainant's 'angurkha' were cut, when he came before the Acting Deputy Magistrate with a complaint on the

evening of the assault. It must be observed that prisoner's witnesses differ widely in other most material points, and therefore their evidence on those points is worthy of no credit.

On the above grounds, prisoner is convicted of the offence laid to his charge, and, under Regulation XIV. Section XXIX. Clause 2nd, sentenced to suffer three (3) weeks' imprisonment without labour, and at the expiration of that period to pay a fine of fifteen (15) rupees, commutable to one (1) week's additional imprisonment without labour.

Confirmation by the First Assistant Magistrate in Charge, on Review, in Case No. 69.—Conviction and sentence confirmed.

Confirmation by the First Assistant Magistrate in Case No. 70.—The punishment in this case seems to me unnecessarily heavy for so trifling an offence. I remit the unexpired portion of the imprisonment, and commute the fine to one of Rs. 10, in default five days' ordinary imprisonment.

Deposition No. 8, not being evidence (Regulation XIII. of 1827, Section XXXIV. Clause 7th), should not have been recorded.

Review by the Session Judge in Case No. 69.—The Court sees no cause to interfere with the sentence, as it is fully proved that prisoner did abuse the Acting Foujdar; but the Court is of opinion that if the Acting Foujdar had not exceeded his authority by going to the shop of Dosabhaee, Parsee, an insolvent, whose shop-goods were under sequestration by the Civil Court, the assault would not have taken place. By going to the shop on the day the goods were sequestered, the Foujdar placed himself in a false position, and the prisoner, doubtless irritated by his uncalled-for interference, was led to make use of the foul language attributed to him.

Supposing it to be conceded that the Foujdar had

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F. S. Chapman,
First Assistant
Magistrate in
Charge.

J. W. Woodcock,
Session Judge.

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authority to go to the shop at the time the shop-goods were being sequestered, in order to keep the peace, which by the way there is no reason to believe was menaced,—unless indeed it was by the interference of the Parsees who went to the shop to shelter their countryman, and the Court has good reason to know they did interfere with the legal process of the Civil Court,—the Foujdar had not any authority in his Police capacity to remain in the shop whilst the *private* property of the insolvent was being sold, at which time the assault took place.

With this view of the case, the Court determines to forward the papers to the Zillah Magistrate, for such remarks as he may think fit to make upon the conduct of the Acting Foujdar.

Review by the Session Judge in Case No. 70.—The First Assistant Magistrate in Charge, in reviewing the case upon petition from prisoner, remitted the unexpired portion of his imprisonment, and reduced the fine to Rs. 10. The Court is of opinion that the evidence was insufficient for the conviction of the prisoner, for this reason:—

The Acting Hoozoor Deputy Magistrate remarks that prisoner had no business to be in the shop; but surely he had more right to be there than complainant, for prisoner went by order of his master, Shahoo Oodaram, who was a creditor of Dosabhaee, to see what property was left after the sequestration of the shop-goods by the Civil Court, whereas complainant, by his own showing, only went to see the row. ..

The Court does not agree with the Acting Hoozoor Deputy Magistrate that the evidence of the witnesses adduced by prisoner in his defence tends to strengthen rather than to clear prisoner of the charge brought against him, for witnesses Nos. 6 and 7 (Maloo and Syed Ibrahim) expressly state that complainant was the aggressor.

The Court is of opinion that the Acting Hoozoor Deputy Magistrate should not, upon the mere statement of prisoner, have cast an imputation upon the judicial character of the Moonsiff, by supposing that he would have been privy to, or offered his counsel for, any illegal act. For these reasons the Court is of opinion that the fine should be remitted, and with this view the case is forwarded to the Zillah Magistrate, for such remarks as he may see fit to offer.

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Explanations by the Acting Hoozoor Deputy Magistrate in Case No. 69.—The Foujdar repaired to the spot on the written complaint of Dosabhaee, and therefore he cannot be said to have exceeded his authority (vide Dosabhaee's petition of complaint in this case).

His interference was asked for (vide petition referred to in explanation No. 1), and the *Moonsiff's* Peons have stated that order was restored by the presence of the Foujdar (vide depositions of witnesses Nos. 6 and 7, in Case No. 70 of the Acting Hoozoor Deputy Magistrate's file).

There is every reason to believe that the peace was menaced, otherwise Dosabhaee would not have gone with a complaint to the Foujdar and solicited his assistance.

The Parsees did not interfere until after the goods entered in the 'durkhast' had been attached, and the remainder was offered for sale by the owner; and consequently they cannot be said to have interfered with the legal process of the Civil Court.

It was quite optional with the Foujdar or *any* other individual, with or without authority, to remain in a shop where private property was *publicly* sold.

Explanations by the Acting Hoozoor Deputy Magistrate in Case No. 70.—There is nothing in the Acting Deputy Magistrate's proceedings to this effect.

Prisoner and complainant were on a level as long as the former was not possessed with a legal authority to

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enter the shop; his master's order was no authority to prevent persons entering the shop.

Witnesses Nos. 6 and 7 in this case *expressly* state as follows (vide deposition of Maloo Peon, dated 25th October 1856):—

“First of all *prisoner* said to complainant, ‘What business have you here?’” Vide deposition of Syud Ibrahim, dated 14th October 1856.

“I was in the verandah: *prisoner* said to two Parsees who were going, ‘What business have so many people to assemble here?’”

The above fact the prisoner himself does not deny; vide his statement, dated 10th October 1856, in which he has stated as follows:—

“As people began to assemble, I said to them, ‘You must not assemble; you have no business here.’”

And in his statement dated 25th October 1856 he says, “I did not assault complainant, I only prevented him from entering the shop.”

These facts are sufficient to prove that *prisoner*, not complainant, was the aggressor, and made use of such language as had a tendency to provoke a breach of the peace.

Prisoner's statement, viz. “The Moonsiff Bhao Sahab had promised to issue an immediate order for the sequestration of the remainder of the goods on our presenting a petition to him for that purpose, &c.” was perfectly voluntary, and of such a nature as to lead any one to take an unfavourable view of a Moonsiff's conduct.

This case was reviewed, and the sentence was mitigated by the First Assistant Magistrate in Charge on appeal.

Letter from the Session Judge to the Registrar of the Sudder Foujdaree Adawlut.—Under the provisions of Clause 3rd, Section III. Regulation VIII. A. D. 1831, I have the honour to hand up, for the consideration of the Judges of the Sudder Foujdaree Adawlut, the accompanying cases, No. 69 and 70, of the Hoozoor Deputy

Magistrate's Calendar for 1856, together with extracts from this Court's proceedings, and his explanations thereon, received with the Magistrate's letter No. 283 of 1857, dated the 22nd ultimo.

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In the Sudder Foujdaree Adawlut ; Minute by Mr. Frere.—The prisoner was, on the 25th October, convicted of assaulting Dorabjee Rustomjee, who says he was going into Dosabhaee's shop, when prisoner prevented him ; he persisted, and prisoner cut off the strings of his āngurkha and pushed him, and as prisoner was about to give him another push Dorabjee caught his hand : for this the Acting Deputy Magistrate sentenced him, on the 25th October, to three weeks' imprisonment, and to pay a fine of Rs. 15. This the Assistant Magistrate, on the 4th November, reduced to Rs. 10 fine, and remitted the remainder of the imprisonment. The Session Judge, on petition, called for the case, and, being of opinion that the evidence was not sufficient for conviction, forwards the case to the Sudder Foujdaree Adawlut.

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W. E. Frere,
Puisne Judge.

I am of opinion that the assault, such as it is, is proved, but that imprisonment from the 25th October to 4th November was a heavier punishment than the case called for, and I would remit the whole of the fine.

Out of this case arose that of Ambadas Seetaram, which the Session Judge has also sent up, but why I cannot tell, unless it be that we should see how the Foujdar had interfered in the case. The Government resolution, No. 4334 of the 24th December last, will, I hope, prevent any interference by the Police with the execution of Civil process in future, and we need not, therefore, take further notice of that part of the case ; but I would annul the Acting Deputy Magistrate's conviction and sentence, and order the fine to be repaid.

It appears that Ambadas, having a decree against a Parsee named Dosabhaee, attached his property through the Moonsiff's Court ; that Dosabhaee went to the Fouj-

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dar, also a Parsee, named Kursetjee, and told him that there was an attachment against his property by the Civil Court, and desired him to go and see that the people of the Civil Court attached his property according to the durkhast, and the Foujdar, instead of telling Dosa-bhaee that it was no business of his, and referring him to the Moonsiff, went there, and finding prisoner's brother (Narayen) trying to keep Dorabjee out of the house, ordered both of them off in custody. Upon which prisoner said what was not complimentary to the Foujdar, and some of it very coarse. I do not care therefore to repeat it; but it does not appear to have been spoken to, or at, but rather spoken of the Foujdar, and under circumstances of natural excitement; so that, even if the Foujdar was perfectly justified in interfering at the attachment, he had far better not have noticed what Ambadas said. The Deputy Magistrate's finding is more an invective against the prisoner than the impartial opinion of a man set to weigh the evidence in the case. He speaks of the "most filthy expressions" used towards the Foujdar, and so, when literally translated, the words may be; but when trying cases of abuse, it is a great mistake to translate the words used into English, and form our opinion of the weight of them by the meaning we should attach to such words if uttered by an Englishman in his own language; we should rather ascertain what value those to whom the language is vernacular attach to them, and place that same value upon them ourselves when called upon to punish any one for using abusive expressions. Measured by that standard, the words used by Ambadas would only be thought coarse vulgar expressions of contempt, and as I do not think it proved that Ambadas abused the Foujdar, though he spoke contemptuously of him, I would remit the sentence in this case also.

R. Keays, Puisne
Judge.

Minute by Mr. Keays.—I concur with Mr. Frere in remitting the punishment in both these cases.

Resolution of the Sudder Foujdaree Adawlut.—The conviction and sentence in the case of Ambadas Seetaram are annulled, and the fine to be repaid.

In the case of Narayen Seetaram the fine is remitted.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Petition of Nuthoo bin Ramchunder to the Sudder Foujdaree Adawlut. Referred to the Acting Magistrate of Tanna, J. R. MORGAN, on the 20th May 1857, for Report.]

TANNA.

Petition of Nuthoo bin Ramchunder to the Sudder Foujdaree Adawlut.—[Praying that an order of the Magistrate of Tanna, to expel him out of the jurisdiction on his failing to furnish security, might be annulled.]

*Failure to Furnish Security for Good Conduct.

Precept issued by the Sudder Foujdaree Adawlut to the Acting Magistrate.—[Calling for a report.]

Return by the Acting Magistrate.—With reference to the petition of Nuthoo bin Ramchunder, herewith returned, the Acting Magistrate of Tanna begs to report that it appears the petitioner, with two others, was tried on a charge of gambling, and acquitted by the Deputy Magistrate, who, considering their conduct very mischievous, sent them to the Superintendent of Police and Assistant Magistrate, in order that security might be taken for their future good conduct. The petitioner being a resident of Bombay, inquiry was made as to his character from the Deputy Commissioner of Police, Mr. Forjett, who reported the individual to be well known to the Bombay Police to be a confirmed gambler, and to have been three times fined for this offence. The Assistant Magistrate, Captain Walker, considered the prisoner (petitioner) to be a dangerous character, and that security should be taken to prevent the inhabitants of Tanna being injured by his visits, now so easily accomplished by railway; he therefore determined, on 5th March 1857 (Regulation

J. R. Morgan;
Acting Magistrate.

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Failure to Fur-
nish Security for
Good Conduct.

XII. of 1827, Section XXV.), to require security for the prisoner's (petitioner's) good conduct for a period of five years in one security of Rs. 200, in default security to suffer one year's imprisonment; and in default of such security, the prisoner, being a resident of the Island of Bombay, to be expelled this Zillah. (Regulation XII. of 1827, Section XXVIII. Clause 1st.)

The prisoner (petitioner) declining to furnish the required security, the case was forwarded to the First Assistant Magistrate in Charge, on the same date, viz. 5th March 1857, for confirmation.

On the 6th idem the First Assistant Magistrate in Charge, Mr. H. B. Boswell, approved of the measures to be adopted by the Superintendent of Police, and confirmed the order for taking security, in default of which the prisoner to be expelled the Zillah, under Regulation XII. of 1827, Section XXVIII.

The petitioner was accordingly expelled the Tanna Zillah on the 9th March 1857.

Resolution of the Sudder Foujdaree Adawlut.—The petition of the prisoner is rejected.

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KHANDEISH.

Present, { WILLIAM HENRY HARRISON, } Puisne Judges.
 { ROBERT KEAYS, }

[Notice issued by the Magistrate of Khandeish, S. MANSFIELD, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 18th May 1857].

Notice by a Magis-
trate.

Notice, under Section XIX. of Regulation XII. of 1827, is hereby given, that whereas people are in the habit of rendering the water of a well situated between Ghorga and Arvel, Talooka Dhoolia, Zillah Khandeish, unfit for drinking, by washing dirty clothes and copper pots in it, and as the water of the said well is very much used by Chowkeedars in its neighbourhood and travellers, the Magistrate orders that no one shall wash dirty or any

other clothes, or eating vessels; or shall clean dirty grain-baskets in it, or bathe in it. Disobedience of this Injunction will be punished according to law.

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June 10.

KHANDEISH.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In accordance with the 6th Clause of Section XIX. of Regulation XII. of 1827, I beg to forward translation of a written Notice issued by me, for the information of the Judges of the Sudder Foujdaree Adawlut.

Notice by a Magistrate.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

1857
June 10.

[Notice issued by the Magistrate of Khandeish, S. MANSFIELD, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 28th May 1857.]

KHANDEISH.

Notice.—It having been brought to the notice of the Magistrate of Khandeish that travellers are in the habit of putting up in the compound of the Dhoolia English Schoolroom, enclosed by a hedge, in Peth Dhoolia, Zillah Khandeish, and give great annoyance to the School by dirtying the place: Notice, under Section XIX. of Regulation XII. of 1827, Clause 6th, is hereby given, for general information, that travellers should not put up in the said compound, or picket their animals there; and that any one disobeying these Injunctions shall be dealt with according to the law.

Notice by a Magistrate.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—In accordance with the 6th Clause of Section XIX. of Regulation XII. of 1827, I beg to forward translation of the written Notice issued by me, for the information of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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June 17.

DHARWAR.

Present, { WILLIAM EDWARD FRÈRE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 16 of the General Calendar of the Dharwar Sessions Court for 1857. Committed by the Assistant Magistrate on the 5th February 1857. Tried by the Session Judge, A. JONES, on the 9th February, and 6th, 7th, 8th, 9th, 11th, 22nd, and 23rd April 1857. Proceedings submitted to the Sudder Foujdaree Adawlut for confirmation.]

Murder, and Rob-
bery with Force;
Concealment of
Murder after the
Fact; and Receipt
of Stolen Property,
knowing it to be
such.

Prisoners.—No. 1, Siddowa kom Appaya, caste Lin-
gaet, aged 20.

2, Munaraya bin Mullyapa, caste
Lingaet, aged 50.

Charge.—Prisoner No. 1 (Siddowa), under Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section XXXVII. Clause 3rd, murder, and robbery with force; in having, on Friday, the 16th January 1857, (corresponding with Poush Wud 6th, Shuké 1778,) in the Village of Yenkunmurdee, Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Oomaya bin Girmulaya, a boy about five years old, by strangling him, and in having taken from his person a pair of silver armlets valued at Rs. 3.

And prisoner No. 2 (Munaraya), under Regulation XIV. of 1827, Section XXVI. Clause 1st, and Section I. Clause 5th, concealment of murder after the fact; in having, on Monday, the 19th January 1857, (corresponding with Poush Wud 9th, Shuké 1778,) in the Village of Yenkunmurdee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, being cognisant of the murder of Oomaya bin Girmulaya by prisoner No. 1 (Siddowa), he gave no information of the circumstance to the Police.

And the prisoner No. 2 (Munaraya) is also charged, under Regulation XIV. of 1827, Section XLI. Clause 1st, with the receipt of stolen property, knowing it to be

such; in having, on the abovenamed date, and in the village aforesaid, received into his possession a pair of 'nagmoorgee' (silver armlets), valued at Rs. 3, from one Siddowa •kom Appaya, knowing or having evident grounds for suspecting the same to have been stolen.

The prisoners plead not guilty. Prisoner No. 2 states the ornaments are his family property.

In the Sessions Court.—The prisoners are charged, No. 1 (Siddowa) with murder, and robbery with force; and No. 2 (Munaraya) with concealment of murder after the fact; and with receipt of stolen property, knowing it to be such; and both plead not guilty.

It appears from the evidence of the complainant Eerowa, that she lives in the verandah of a house in Yenkunmurdee, belonging to and occupied by her brother Appaya and the prisoner Siddowa (to whom Appaya had been married in 'nika' some few months before this case occurred). She states that on Friday, the 16th January, she left her children (two little girls and the child Oomaya) at home, and went out to graze her buffalo and beg grain at the village threshing-floors until evening; and that on her return to the house the girls told her Oomaya was missing. She searched for him in vain about the village, and at length reported his absence to the Police Patel.

The Police Patel deposes that he continued the search, but with no better success; and that, having reported the matter, a Sepoy was sent to assist in it, and arrived on Sunday the 18th. Nothing, however, was discovered until Tuesday morning the 20th, when a gardener came and gave intelligence that a child's body was floating in his well.

This body proved to be that of the missing child, and an Inquest was held on it the next day, Wednesday the 21st, before the District Police Officer of Hookeree, and the report was proved before the Court and record-

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ed, and is to the effect that, judging from some marks like nail-marks on the neck, the child had been murdered by strangling.

The District Police Officer of Hookerçe, to whom the report of the discovery of the body was made, came to Yenkunmurdee on the Tuesday evening (20th), and it appears that in consequence of the confession of the prisoner Siddowa that she had killed the child and had given two armlets which she had taken from it to her father, prisoner No. 2, a resident of Mullapoor, the Sepoy (witness No. 10) was sent there to get them, and that he started early on Wednesday; and he deposes that he went to Mullapoor and brought back prisoner No. 2 and these armlets to Yenkunmurdee on the same day; and the complainant, her daughter, and two neighbours depose that these armlets were those always worn by the child Oomaya.

The evidence against the prisoner Siddowa is that of the complainant's child, an intelligent girl of ten years of age, who deposes that she and her sister went off to see a snake-charmer in the afternoon of Friday (16th January), leaving their young brother Oomaya at the house, where the only other person was the prisoner Siddowa, and that on their return the child was missing; and that of the Police Patel, who deposes that he ordered the arrest of Siddowa on Tuesday; and both heard the Sepoy (witness No. 10) state that she confessed the crime in their presence on this Tuesday evening; and though her written confession in detail was denied by her before the Court, it was proved to have been given by her voluntarily before the District Police Officer, and to have been admitted and confirmed by her also in the same way before the Assistant Magistrate, from whose proceedings it appears also that she pleaded guilty.

The witnesses to this confession, however, made at first a confusion between the verbal explanations of the

prisoner given on Wednesday, the 21st January, before the members of the Inquest, as described by the witnesses Buslingapa (No. 12), Neijehlingapa (No. 3, on his re-examination), and the statement of the prisoner taken down in writing in Hookeree. The Police Patel of Yenkunmurdee also has made the same mistake. This was certainly very careless, but the Session Judge does not think it was caused by anything but carelessness, and does not therefore consider it throws any doubt on the fact that the confession was made.

And considering, moreover, that it is corroborated by the discovery of the armlets with her father, and that she pleaded guilty before the Assistant Magistrate, the Session Judge is of opinion that she may be convicted as charged.

The charge of concealment of murder after the fact will not lie against prisoner No. 2 (Munaraya), on account of his relationship to prisoner No. 1, who is his daughter.

With regard to the second charge against him, the Police Patel of Mullapoor and the Sepoy Purwutta both depose that he denied having the ornaments demanded of him, and only gave them up on being threatened with the search of his house, and that he then said he supposed his daughter might have put them in his bag when he was at Yenkunmurdee, three days before. These two witnesses, however, certainly differ from each other as to the manner in which the ornaments were produced, and as to the prisoner having said they were his own when he first produced them. The Police Patel says he did say this. The Session Judge, however, is not inclined to give much credit to this witness on this point, as it appeared that he evidently wished to favour the prisoner.

The prisoner's statement, made before the District Police Officer, though denied before the Court, was proved to have been made by him voluntarily; and the

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Session Judge does not see any reason to doubt this, for, beyond denying it, it is not accounted for in any way. His statement before the Assistant Magistrate was also denied before the Court, but this could not be proved against the prisoner, as it had not been attested.

The first statement is to the effect that he had gone to Yenkunmurdee on Sunday (18th January), and that the next day his daughter, the prisoner Siddowa, put two armlets in his bag and told him to take them away, and that they were found there. He denied that his daughter had told him of the murder. Before the Assistant Magistrate he declared he had not denied having these armlets when asked for them by the Police Patel and the Peon, and said also, that his daughter had given them to him to keep because she was pregnant; but he made no other alteration whatever in his previous statement.

On the trial before the Sessions Court the prisoner declared these armlets were his own, and his Vakeel at the close of the trial named some witnesses to prove this. They belong to a village which they say the prisoner left a year ago. The prisoner, in his statement, however, says he has lived in Mullapoor all his life; but the two villages adjoin, and therefore he may not have thought it necessary to mention such a trifling change of residence. But their evidence did not convince the Session Judge; he thought them so exact in their description of, and so ready to mention these particular ornaments the moment they were questioned about the ornaments of the prisoner Munaraya, that he is under the impression they must have been instructed beforehand what to say. And considering, therefore, the denial of the possession of these ornaments in the first instance, and the statement of the prisoner before the District Police Officer, and the fact that not one word about these ornaments having belonged to the prisoner was mentioned by him until the case came before the Sessions Court, the Session Judge

is of opinion that his ownership of them is not made out satisfactorily, and determines to convict the prisoner, therefore, of the receipt of stolen property, knowing it to be stolen; in having, on Monday, the 19th January 1857, (corresponding with Poush Wud 9th, Shuké 1778,) in the village of Yenkunmurdee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, received into his possession a pair of nagmoorgee (silver armlets), valued at Rs. 3, from one Siddowa kom Appaya, knowing or having evident grounds for suspecting the same to have been stolen.

Prisoner No. 1 is convicted of murder, and robbery with force; in having, on Friday, the 16th January 1857, (corresponding with Poush Wud 6th, Shuké 1778,) in the village of Yenkunmurdee, in the Chikoree Talooka, in the Belgaum Division of the Dharwar Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Oomaya bin Girmalaya, a boy about five years old, by strangling him, and in having taken from his person a pair of silver armlets valued at Rs. 3.

And after considering, therefore, the nature of the crimes committed, and the punishment assigned thereto in Regulation XIV. of 1827, Section XXVI. Clause 4th, and Section XLI. Clause 1st, the following sentence is passed:—

That you, Siddowa, be transported across the seas for the term of your natural life. Subject to the confirmation of the Sudder Foujdaree Adawlut.

And that you, Munaraya, be imprisoned and kept to hard labour for two (2) years.

In the Court of Sudder Foujdaree Adawlut; Minute by Mr. Frere.—I think the Session Judge was right in sending for the witnesses he did on the 11th April, but he ought to have examined Dhondapa, if alive, from whom Eerowa (witness No. 2) says she purchased the nagmoorgees eight or ten years ago, as, being a Sonar,

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Puisne Judge.

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it is probable he made them, and might be able to recognise his workmanship even now; indeed he ought, under any circumstances, to have been examined.

There is proof that Oomaya bin Girmalaya was last seen alive with prisoner Siddowa; there is proof that the nagmoorgees he wore when last seen alive were found in the possession of the prisoner Munaraya, father of Siddowa. The defence is to prove that these nagmoorgees were Munaraya's, but that failed. The only part, then, of the confession that is of importance is that in which Siddowa confesses that she gave the nagmoorgees to Munaraya. They were found on Munaraya; and, as he did not live at Yenkunmurdee but at Mullapoor, there can be no doubt but that Siddowa must have confessed to having given them to him. Seeing that receiving these articles is only part and parcel of the way in which Munaraya concealed the murder his daughter had committed, I think it would have been better, as Munaraya could not be punished for concealing the murder, that the Session Judge or Assistant Magistrate should have acquitted him altogether, and made him a witness in the case. As it is, though the case against Siddowa is clear, and it is clear that Munaraya had the ornaments in his possession, there is nothing to show that he took any part either in the murder or robbery, or took the ornaments with any other intention than that of concealing his daughter's crime; and as that is not, under Clause 7th, Section I. Regulation XIV. of 1827, a criminal offence, I would acquit him, but confirm the conviction and sentence on Siddowa.

Resolution.—The conviction and sentence on Siddowa are confirmed.

The prisoner Munaraya bin Mullyapa is acquitted, and to be discharged.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
ROBERT KEAYS,

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[Petition from Dhurma wulud Luximon to the Sudder Foujdaree Adawlut. Referred to the Magistrate of Ahmednuggur, C. E. F. TYTLER, on the 24th December 1856, for Report.] AHMEDNUGGUR.

[See pages 560 to 566, Vol. VII. of 1857, for previous proceedings in this case.] Disputed Possession of Property.

Petition of Dhurma wulud Luximon to the Sudder Foujdaree Adawlut.—[Representing that only half the property alluded to in his former petition has been given to him, and praying that the Magistrate might be ordered to give him the whole.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—[Calling for report.]

Return by the Magistrate.—In obedience to this Precept, the Magistrate has the honour to report on the accompanying petition as follows :—

The order passed in this case was that, “after maturely weighing all the circumstances of the case, it was determined to make over the property jointly to the claimants, leaving it to them to decide amicably, or by Civil suit, their respective claims.”

When this decision was communicated to the parties, petitioner replied, somewhat impertinently, that he had the Sudder’s order to receive the whole property, and would listen to no other order. On this he was warned not to interrupt proceedings, and informed that the Sudder Foujdaree Adawlut (Registrár to the Sudder Foujdaree Adawlut’s letter 2661, of 6th December 1856, “You can adopt their views, or act in any other way”) had left it open to the Magistrate to act as he deemed best.

After this there was no further demur, and the property was duly made over to the claimants under the above decision, and proceedings here closed.

After receiving the property, however, it became

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apparent that as the parties had to make a long journey, with a large amount of property in their possession, it was necessary to take precautionary measures against accident or robbery on the way, and to place the claimants on a footing of equality. To this end the Magistrate gave each claimant a half, telling them, as above, that it still rested with them to settle matters amicably or by Civil suit. This arrangement was merely a friendly and precautionary measure, forming no part of the decision.

The Magistrate respectfully trusts that the Judges will not have cause to interfere in the decision given in para. 2nd above. The case having already become most complicated, it has received the Magistrate's best and prolonged consideration, and he chose the course that appeared to him least open to objection.

Resolution of the Sudder Foujdaree Adawlut.—The Court cannot reconcile this return with that made on the 9th April. In that the Court are informed that the parties “agreed to settle their claims amicably, Dhurma more especially seeming well satisfied with the adjustment and termination of the matter.” It now appears that after making the property over to the claimants, the Magistrate divided the property between them, as a friendly and precautionary measure (the difference between making the property over to the claimants and dividing it between them is not clear). But when the Magistrate's decision, that the property should be made over jointly to the parties, and that they must decide their claims amicably, was made known to Dhurma, it now appears that so far from being well satisfied with the adjustment, he replied impertinently, and insisted on having the whole property made over to him. The Magistrate further deprecates any interference on the Court's part, the case having become most complicated.

The Magistrate brought this case originally to the notice of the Court, and requested their instructions as

to the question of ownership. They told him distinctly that they thought the property ought to be restored to Dhurma, from whose possession it was taken. The Magistrate formed a different opinion, and instead of placing the property in the same position as it was found when Dhurma, against whom nothing was proved, was first taken up, he wishes to give it to the person he thinks the lawful proprietor of it, which was not a point for the Magistrate to decide, and thus he has himself complicated the case. All the Magistrate had to do when Dhurma was acquitted, was to see the property placed in the same position as it was before Dhurma was taken up, and to have left those who thought they had any claim to it to establish their claim by a Civil suit. From his not having done this, the Court must now act (which they could not do before the Magistrate had disposed of the question, nor when they were informed that the parties had agreed to settle their claims amicably), and the Magistrate's order must be reversed, and the Magistrate directed to make all the property over to Dhurma, in whose house it was found, and leave any person who has a claim to it to sue for recovery of it in the Civil Court.

In the event of the Magistrate not being able to make the property over to petitioner, Dhurma may be informed that his only redress lies in suing the Magistrate and Godhoo.

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Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
ROBERT KEAYS,

RUTNAGHERRY. [Case No. 9 of the Rutnagherry General Calendar for 1857. * Committed by the Deputy Magistrate, J. TROTT, on the 7th April 1857. Tried by the Acting Session Judge on Circuit, C. J. ERSKINE, on the 21st, 23rd, 24th, and 25th April 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, on the petition of Gunojee bin Khundojee.]

Conspiracy.

Prisoners.—No. 1, Gunojee bin Khundojee Sindé, caste Sindia, aged 24.

2, Balsett bin Babsett, caste Wanee, aged 42.

3. Ballajee Vishnoo Ataole, caste Brahmin, aged 30.

4, Jotsett bin Balsett, caste Wanee, aged 23.

Charge.—Conspiracy ; in having, between the 15th January 1854 and 30th June 1855, (Mitee Poush Wud 1st, Shuké 1775, and Adhik Ashad Wud 1st, Shuké 1777,) exact date not known, in the town of Rutnagherry or elsewhere, Talooka Rutnagherry, Rutnagherry Division, Zillah Konkun, conspired together to injure and impoverish the prosecutor, Poondliksett bin Krishnasett Rediz ; and, in pursuance of the said combination, the prisoners No. 1 (Gunojee) and No. 2 (Balsett) did, on pretence that prisoner No. 2 was in debt to prisoner No. 1, draw out a mortgage bond, of date Poush Wud 1st, Shuké 1775, (corresponding with 15th January 1854,) purporting that prisoner No. 2 was to clear off the debt within a period of nine months from that date, or that, on failure thereof, the house, together with its premises, belonging to prisoner No. 2, was to be considered as the property of the said prisoner No. 1. Prisoner No. 1 did also produce the said mortgage bond in the Sudder Ameen's Court at Rutnagherry, in order to remove an

attachment placed on the abovementioned house by the aforesaid prosecutor, in satisfaction of a decree obtained by him against his judgment debtor, prisoner No. 2. And prisoners Nos. 3 and 4 (Ballajee and Jotsett), though aware of the fraudulent design of prisoners Nos. 1 and 2, did attest the fabricated bond. (Regulation XVII. Section I. of 1828).

Prisoners plead not guilty.

In the Sessions Court.—The prisoners have been arraigned on a charge of conspiracy, in having combined to injure the complainant by co-operating in the execution of a fictitious bond, intended to enable the prisoner No. 1 (Gunojee) to remove an attachment placed by complainant on the house of prisoner No. 2 (Balsett), and which did in fact enable the prisoner No. 1 (Gunojee) to effect this object.

It appears that on the 27th January 1853 the complainant filed a plaint against prisoner No. 2 (Balsett), in order to recover from him a sum of Rs. 30, and that he (complainant) obtained a decree in the Sudder Ameen's Court on the 3rd May following.

In consequence of the non-payment by prisoner No. 2 (Balsett) of the sum thus awarded, the complainant twice moved the Court during the same year (on the 23rd August and on the 3rd December 1853) to order the incarceration of his debtor. These durkhasts, however, were both cancelled at the complainant's request; the latter on the 6th January 1854.

The complainant presented two other durkhasts (on the 10th March and 29th April 1854) for the incarceration of his judgment debtor, but these also were cancelled at his (complainant's) request; the latter after he had received a sum of Rs. 5 from prisoner No. 2 (Balsett).

On the 27th of November 1854 complainant once more moved the Court to order prisoner No. 2 (Balsett) to be

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C. J. Erskine,
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imprisoned, and on this occasion prisoner No. 2 (Balsett) was actually in jail for about thirteen days.

After the prisoner's release, the complainant moved, on the 3rd of January 1855, for the attachment of his (prisoner's) house; and it was attached on the 5th idem. On the 27th of May a notice was issued that the property would be sold in thirty days; and, on the 30th of June following, prisoner No. 1 (Gunojee) filed a suit to have the attachment removed.

The prisoner No. 1 (Gunojee) was on that occasion non-suited (on the 7th March 1856), because he failed to produce his witnesses. But the Senior Assistant Judge, on appeal, ordered the suit for re-trial (31st July 1856). On re-trial the claim of prisoner No. 1 (Gunojee) was admitted by the Sudder Ameen (4th November 1856), and the Senior Assistant Judge, on an appeal being made by the complainant, was on the point of affirming the decision of the lower Court, when he discovered that the bond, on which the claim of prisoner No. 1 was founded, bore a date anterior to the sale-date of the stamp on which it is written. On making this discovery the Senior Assistant Judge rejected the claim of prisoner No 1 (Gunojee), then the respondent; and directed that criminal proceedings should be instituted against all the parties to the bond.

It need only be further noticed, that the bond thus brought into suspicion, and which bears date the 15th January 1854, is said to have arisen out of an older bond, dated the 31st January 1853. Both these deeds have been produced and recorded in this case.

From the outline just given, it will be seen that the complainant first sued prisoner No. 2 (Balsett) on the 27th of January 1853, and that the first mortgage bond passed by prisoner No. 2 (Balsett) to the prisoner No. 1 (Gunojee) is said to have been executed on the 31st idem.

Also that the complainant had obtained a judgment

against prisoner No. 2 (Balsett), and twice moved for his incarceration, before the alleged date of the second bond, viz. the 15th January 1854.

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Also that the motion by the complainant for the attachment of the house of prisoner No. 2 was made on the 3rd of January 1855, and that the second bond was produced on the 30th June following, and the first bond on the 21st October 1856.

The points on which the Court is now required to pass judgment are the following :—1st, whether or not this second mortgage bond is a *bonâ fide* document? 2nd, If it be not, whether or not it was fabricated for the purpose of injuring the complainant? And 3rd, If it were fabricated for this purpose, whether or not all the prisoners were consenting to the fabrication?

1st,—Is this a *bonâ fide* document?

It is admitted that the bond cannot really have been executed on the date which it bears, since the stamped paper on which it is written had not then been purchased. The stamp was not sold until the 20th of January 1854, while the bond professes to have been executed on the 15th idem. Confessedly, therefore, this bond bears on its face the evidence either of a material error or of a gross fraud.

The counsel of prisoner No. 1 (Gunojee) have submitted that this discrepancy of dates will not of itself shut out the belief that the bond may be a *bonâ fide* document. In support of this view they have referred to a case (No. 118 of 1855, Civil file) in which an antedated agreement for fees to counsel was recorded in a Civil suit in this place, and in which the claim described in the agreement was admitted by the Senior Assistant Judge. The Court has referred to those proceedings, and finds that in that instance it was believed that the claim was established by independent evidence. It is not denied that an error of dates may, in certain circumstances, exist in a *bonâ fide*

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document; but such an error will always bring suspicion upon a document, and will impose upon the party producing it an obligation to clear it from suspicion. This obligation lies upon the prisoners in this case.

The counsel of prisoner No. 1 (Gunojee) further represent that the discrepancy may be the result of a clerical error, or that the date entered in a previous draft of the bond may have been inadvertently copied into the bond itself.

But the four prisoners in this case are all intelligent men. Three of them at least are not inexperienced in business; every one of them is able to read and write well. It is extremely improbable that all these men together should accidentally omit to notice a clerical error of this magnitude in a bond, with the execution of which they were concerned, and which, therefore, it was their duty to peruse. The improbability is especially great in a case wherein the bond alluded to was passed under circumstances which must have excited much suspicion; for even at the alleged date of execution a decree had been obtained by complainant against prisoner No. 2 (Balsett), and two motions for this prisoner's incarceration had been made by the said complainant, whose demand still remained unsatisfied. One of the durkhasts had been cancelled only a few days before the date of the bond. Yet, if this bond were genuine, the prisoner No. 1 (Gunojee) was then to allow prisoner No. 2 (Balsett) a large loan (partly in cash) on a less security and at a much lower rate of interest than he is said to have charged a year before, when no decree had been passed or durkhast presented at all. The Court cannot, under these circumstances, gratuitously suppose that the suggestion as to a clerical error is the true explanation of the discrepancy in regard to dates, especially as the error is not one of a day or two only, but, on the most favourable interpretation, extends to not less than eight or nine days.

Neither can the Court believe that the discrepancy was occasioned by the inadvertent insertion in the bond of a date previously entered in a rough draft. The prisoners Nos. 1 and 2 (Gunojee and Balsett) have indeed asserted this, but they have not produced the draft, nor, although they confidently affirm that this draft was the cause, and is the explanation of the error for which they have suffered, and although they had thus a strong motive to take care that it should be preserved, have they given any proof that it ever existed. The prisoner No. 1 (Gunojee) has a father, a mother, and a brother, but it is not alleged that he entrusted the draft to any of them. It is said that he gave it to his grandmother, who is since dead. The statements of prisoners Nos. 1 and 2 (Gunojee and Balsett), as to the writer of the draft, are not coincident. The prisoners had not (they say), when the draft was written, purchased the stamped paper on which it was to be copied, and could not, therefore, expect to get it copied on the day of drafting. There could thus be no reason for inserting a date in any draft which they might prepare, and every reason for abstaining from doing so, even if it were not unusual to insert dates in such cases. Moreover, on the supposition of a dated draft, as on that of a clerical error, it is not shown how a mistake of such importance could have escaped the notice of four intelligent men, who can all read and write, and who were all concerned in the execution, and responsible for the correctness of the bond in which it occurred.

The character of the bond is still further discredited by a reference to the kind of paper on which it is drawn out. The prisoner No. 2 (Balsett) alleges that the stamp which he bought on the 20th of January 1854 was purchased for a mortgage bond. But the prisoner did not on this occasion procure the kind of paper generally used for mortgage bonds (and which, if the first bond be genuine, he had formerly used), nor did he cause the

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paper which he did procure to be endorsed at the Stamp Office as for a mortgage bond (as is usual with papers bought for that purpose), but only as for a bond. This prisoner at first alleged that he had asked the Stamp Karkoon for the usual kind of paper, but was assured there was none of it at hand, an allegation which is proved to be false by the evidence of the Stamp Karkoon and of his books, whence it appears that there were 8 or 10 4th class papers in store on the date of the sale.

These circumstances certainly indicate that when prisoner No. 2 (Balsett) bought the stamped paper on which the second bond is written, he had no intention of immediately using it for a bond such as that now engrossed upon it. The prisoner No. 3 (Ballajee), it may be added, by his own admission, was aware that mortgage bonds are usually made out on 4th class paper, but he affirms that the exceptional character of the paper used in this instance did not strike him, although the two sorts of paper are so dissimilar that his statement can hardly be credited. The Vakeels of prisoner No. 1 (Gunojee) have contended that mortgage bonds need not of necessity be engrossed on 4th class paper, and the Court is aware of this. But confessedly it is the practice to engross them on such paper, unless there be some special reason for the variation. This practice is not denied, and no explanation of the deviation in this case is alleged.

The great suspicion arising from these circumstances might, perhaps, be dispelled if it were made clear—1st, that the claim affirmed in the bond was really a valid one; 2nd, that the provisions contained in the bond were really afterwards fulfilled; and 3rd, that the parties concerned have a consistent, uniform, and satisfactory account to give of the circumstances under which the bond was executed. But none of these things are made clear.

The claim represented by this bond is said to rest upon two transactions : 1st, a balance due under an old bond ; and, 2nd, a fresh advance of money made at the time of executing the new one. But while the old bond itself is by no means satisfactory, the prisoners are unable to give any proof whatever as to what sums had been received and what were outstanding under it, nor is the receipt of any instalment endorsed on the bond itself. There is, therefore, no proof that there was then really any balance due by prisoner No. 1 (Gunojee) to prisoner No. 2 (Balsett) at all ; neither is the alleged advance of cash more satisfactorily established. The prisoner No. 1 (Gunojee) says he did not pay over any such advance himself, but gave the money to his grandmother to give to prisoner No. 2 (Balsett). Prisoner No. 2 (Balsett) says that he received the money from the grandmother of prisoner No. 1 (Gunojee). But the prisoners Nos. 3 and 4 (Ballajee and Jotsett) affirm positively that the money was paid by prisoner No. 1 (Gunojee) himself to prisoner No. 2 (Balsett) in their presence. In the face of these contradictory assertions, there is no reason to believe that any fresh payment was made at the date of the new bond : or that any claim then existed on account either of an old balance or a new advance, which required the execution of a new bond.

The intention of the second bond was that after nine months (7th October 1854), if the debt to which it refers were not liquidated, prisoner No. 1 should come into possession of the house and premises of prisoner No. 2 (Balsett). In order to show that this condition was fulfilled, prisoner No. 1 (Gunojee) has produced an agreement, dated 23rd November 1854, on unstamped paper, in which prisoner No. 2 (Balsett) agrees to rent the house from prisoner No. 1 (Gunojee) for twelve months, at a certain rate. But the witness No. 26, who has long lived in the house, has never heard of any such

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transfer, nor paid any rent to prisoner No. 1 (Gunojee), nor ceased to pay rent to prisoner No. 2 (Balsett). This of itself is not proof that the house may not have been passed to prisoner No. 1 (Gunojee); but, in the face of this evidence, and of the fact that prisoner No. 1 (Gunojee) cannot show that prisoner No. 2 (Balsett) has paid him any rent at all during the two and a half years which have elapsed since the date on which the property must have passed to prisoner No. 1 (Gunojee), if the provisions of the new bond had been valid, and cannot show what steps he took to secure his claim for rent at the close of the twelve months to which only the alleged agreement on unstamped paper applies; and considering, moreover, that while prisoner No. 2 (Balsett) asserts that his lodger, Balkrishna, occupied a part of the house by the permission of prisoner No. 1 (Gunojee) since the transfer, the prisoner No. 1 (Gunojee) confirms the lodger's contradiction of this assertion; the agreement on unstamped paper is quite insufficient to establish that the provisions of the new mortgage bond have been in any way fulfilled.

But the most important consideration in this case still remains to be noticed. It is that the statements of the four prisoners themselves are neither such as they could have given were the bond a true one, nor at all consistent in themselves or with each other.

Prisoner No. 3 (Balajee) has asserted that he affixed his attestation to the bond on the date which it bears. This assertion is conclusively refuted by the stamp vender's endorsement, which proves that the paper was not sold until some days after that date. The statement of the prisoner No. 1 (Gunojee) alleges that the bond was written on the sixth day from the date of the draft (or ostensible date of the bond). The prisoner No. 2 (Balsett) states that the bond was written on getting the stamped paper for it. Their statements therefore point

to the 20th or 21st of January as the date of execution. But these representations also are opposed to the truth; for, from papers produced by the Nazir of the Rutnagherry Court, it is clear that prisoner No. 3 (Ballajee) was absent from Rutnagherry until the 22nd January, and returned thither only on the 23rd idem.

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Again, prisoner No. 1 (Gunojee) states that he was not present when the bond was written and the money paid, and that he did not look what date was inserted in the bond. Prisoner No. 2 (Balsett) states that prisoner No. 1 (Gunojee) was not present when the bond was written and the money paid, that prisoners Nos. 3 and 4 (Ballajee and Jotsett) were not present when he (prisoner No. 2) signed it, and that prisoner No. 4 (Jotsett) was not present when prisoner No. 3 (Ballajee) attested it. Prisoner No. 3 (Ballajee) states that when he attested the bond, prisoners Nos. 1, 2, and 4 (Gunojee, Balsett, and Jotsett) were all present; and prisoner No. 4 (Jotsett) states that, when he attested the bond, prisoners Nos. 1 and 2 (Gunojee and Balsett) were present, but not prisoner No. 3 (Ballajee), whose attestation he (prisoner No. 4) recognised, and consequently affixed his own.

Such glaring discrepancies could not occur in the statements of four intelligent men in regard to a real occurrence in which they had all been personally concerned; nor are genuine bonds signed and attested in such an irregular and reckless manner.

The Court, therefore, can arrive at no conclusion but this, that the bond to which these proceedings refer has no claim to be regarded as a *bonâ fide* document.

It is next to be considered whether the bond was fabricated for the purpose of injuring the complainant.

On this point there appears to be no room for doubt. Even if prepared before the complainant had caused the house of prisoner No. 2 to be attached, the bond must have been calculated to injure the complainant. Its

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execution even then could be justified only on the ground of intrinsic validity. Without this second bond the prisoner No. 1 (Gunojee) could have claimed under the first bond (supposing it to be genuine) only to have the debt due to him by prisoner No. 2 (Balsett) made good out of the proceeds of the property to be sold in virtue of the complainant's attachment. By means of the second bond he was able to get a decree for the removal of the complainant's attachment altogether.

The Vakeels of prisoners Nos. 1 and 4 (Gunojee and Jotsett) have remarked that until the property of prisoner No. 2 (Balsett) was attached, there was no reason why a bond should be antedated, as it might have been legally executed on any date up to that time. It is true that any bond representing a *bonâ fide* claim might have been legally executed until the presentation of a motion for the attachment of the prisoner's property, nor does it appear that until such a motion was made there existed any valid reason why a bond (whether genuine or fictitious) should be antedated. As, however, there is no proof of a *bonâ fide* claim, while the circumstances already detailed bring the whole of this transaction into the greatest suspicion, the argument used by the Vakeels will only strengthen the belief, already adopted by the Court, that the bond cannot have been prepared until about the time of the attachment or after it.

Finally.—Were all the prisoners consenting to the fabrication of this new bond?

There can be no doubt that the prisoners combined to execute the bond, and that they were aware of its character and tendency. They all admit that they took part in its execution. The Vakeel of prisoner No. 4 (Jotsett) has alleged that his client merely attested the deed, and is not shown to have been a party to any conspiracy, if such existed. The Vakeel of prisoner No. 1 (Gunojee), on the other hand, has referred to a

case decided in this place in 1847, in which it was held that conspiracy was not established because previous concert was not proved. The Court has referred to that case, but is of opinion that it bears no analogy to the present one. The combination in this case is proved as against all the prisoners, by the joint execution of a written instrument by them all. And in the case of intelligent men who can read and write, and are acquainted with the principal parties to the bond and with their circumstances, no plea of ignorance as to the contents, or as to the obvious tendency of the instrument, can be justly admitted by the Court.

After a full consideration, therefore, of all the evidence above recorded, the Court convicts all the prisoners of the crime of conspiracy; in having, between the 15th January 1854 and 30th June 1855, (Mitee Poush Wud 1st, Shuké 1775, and Adhik Ashad Wud 1st, Shuké 1777,) exact date not known, in the town of Rutnagherry or elsewhere, Talooka Rutnagherry, Rutnagherry division, Zillah Konkun, conspired together to injure and impoverish the prosecutor, Poondliksett bin Krishnasett Rediz; and, in pursuance of the said combination, the prisoners No. 1 (Gunojee) and No. 2 (Balsett) did, on pretence that prisoner No. 2 was in debt to prisoner No. 1, draw out a mortgage bond, of date Poush Wud 1st, Shuké 1775, (corresponding with 15th January 1854,) purporting that prisoner No. 2 was to clear off the debt within a period of nine months from that date, or that, on failure thereof, the house, together with its premises, belonging to prisoner No. 2 (Balsett), was to be considered as the property of the said prisoner No. 1 (Gunojee). Prisoner No. 1 (Gunojee) did also produce the said mortgage bond in the Sudder Ameen's Court at Rutnagherry, in order to remove an attachment placed on the abovementioned house by the aforesaid prosecutor in satisfaction of a decree obtained by him against his judgment debtor, prisoner No. 2 (Bal-

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sett); and prisoners Nos. 3 and 4 (Ballajee and Jotsett), though aware of the fraudulent design of prisoners Nos. 1 and 2, did attest the fabricated bond.

And, after carefully considering the circumstances of this case, and the heinous nature of the crime, the Court passes the following sentences :—

That you, prisoners Nos. 1 and 2 (Gunojee bin Khundojee Sindé, and Balsett bin Babsett), be imprisoned with hard labour for four (4) years each, and each of you pay a fine of one hundred (100) rupees, or be further imprisoned with hard labour for one (1) year; that you, prisoner No. 3 (Ballajee Vishnoo Ataole), be imprisoned with hard labour for three (3) years; and that you, prisoner No. 4 (Jotsett bin Balsett), be imprisoned for two (2) years with hard labour. (Regulation XVII. Section II. of 1828.)

It will be observed that the Court has allowed no weight to the allegations of the witnesses Nos. 27 and 30. Their statements are not satisfactory in themselves, and, if it had been more clearly explained in the preliminary depositions that these persons were so nearly connected with the complainant, it would hardly have been necessary to examine them before this Court.

There is one other consideration, which, although it has not been noticed by the counsel for the prisoners, and is indeed a mere conjecture, might nevertheless be held (if an appeal be made from this decision) to affect the case as against prisoner No. 4 at least. It should not therefore be unrecorded. The second bond above referred to is dated 1st Poush Wud, Shuké. 1775 (15th January 1854). Now, the 1st Poush Wud in the ensuing year (1855) happens to be the 4th of January; that is to say, the day between that on which the motion for attachment was presented by complainant, and that on which the order for attachment was issued. It may be regarded as possible that advantage might have been taken of this coin-

cidence, that the bond might have been signed on this latter date, and that the year date only being incorrect might have escaped the notice of prisoner No. 4 (Jotsett). As, however, he is well informed as to the affairs of prisoner No. 2, it does not appear to the Court that this supposition can be allowed to weigh on his behalf, and certainly not on behalf of the other prisoners. For, according to this hypothesis, the date of the signature of the bond transferring the property to prisoner No. 1 would be subsequent to the date of the motion for its attachment by complainant. And in respect to this motion none of the prisoners, certainly none of the first three prisoners, can be supposed to have remained uninformed. (The prisoner No. 3 is indeed an Oomedwar in the Juptee Department of the Nazir's office.)

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In the Court of Sudder Foujdaree Adawlut; Minute by Mr. Frere.—The evidence in this case precludes our arriving at any other conclusion but that the bond said to have been passed by prisoner Balsett to prisoner Gunojee on the 1st Poush 1775 (A. D. 15th January 1854) was the result of a conspiracy entered into by Balsett with Gunojee to defraud Poondliksett, and that Ballajee and Jotsett were parties to it.

W. E. Frere,
Puisne Judge.

The story is the old one. Poondliksett got a decree against Balsett and attached his house, upon which Gunojee sued to have the attachment raised, claiming the house as his own, having, in the first instance, taken a mortgage of it, and subsequently advanced a further sum, and, if that was not repaid within nine months, the house was to be his property. The money was not repaid, and the house became Gunojee's; but Balsett continued to live in it as his tenant. I have met with many cases like this in their general features, and always suspected them, but I do not think I ever found one so clearly proved false as this.

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The attesting witnesses to the bond, Ballajee and Jotsett, say, the first (Ballajee), that Gunojee, Balsett, Jotsett, and Kassinath (the writer of the bond), were all present when he attested it, and that he saw the money paid. Jotsett says that Gunojee and Balsett and Kassinath (the writer of the bond, now dead) were present when he attested it, but not Ballajee; and that he saw the money paid by Gunojee to Balsett; while Gunojee denies that he was present when the bond was drawn up, that he left the money and draft of the bond with his grandmother, and that on his return in the evening she gave him the bond attested by Balsett and Jotsett, which he put by without reading. Balsett accounts for the mortgage bond being written on an unusual sized paper from the fact of the Karkoon having none of the usual size on hand, and says that Sewtee, and not Gunojee, was present when Kassinath wrote the bond, and that seeing Ballajee pass by and also Jotsett, he called them in, and they attested the bond. Now, as truth is always consistent, if these stories were true, it would be possible to reconcile them; but as that cannot be done, we must conclude that one only can be true, and probably not even one of them. The Karkoon, Mahadajee, shows that stamped paper of the class generally used for mortgage bonds was procurable on the 20th January, the day on which the paper for the bond was purchased; and the bond being dated the 1st Poush Wud 1775, which corresponds with the 15th January, shows that it could not have been written on the day it was dated, as Ballajee asserts it was, and on which day he attested it; but this is shown to be impossible, as he was absent from Rutnagherry from the 14th to the 23rd January 1854, so that he could neither have attested the bond on the day it was dated, nor on the day it was drawn out, according to the statement of the other prisoners. The fact of Gunojee by this bond lending money to Balsett, against

whom there was an unexecuted decree, on more favourable terms than he did a year before, when there was no decree against him, as noticed by the Session Judge, renders the story of the transaction improbable ; but the evidence of Balkrishna, that he had lodged in the house for four years, and never, even after the alleged sale had taken place, paid his rent to Gunojee but always to Balsett, shows that no such sale ever did take place. It is, therefore, very clear that the sale was fictitious, made with a view to prevent Poondliksett getting his decree executed, and, consequently, a conspiracy on the part of Gunojee, Balsett, Ballajee, and Jotsett to defraud Poondliksett ; and though the sentences are heavy, I do not think them heavier than the offence merits, and I would reject the petitions.

As attesting witnesses are not necessarily guilty of conspiracy because they attest false bonds, the Session Judge has pointed out that the day the motion was made for attaching the property was the 15th Poush Shood 1776, and consequently the next day was the 1st Poush Wud, and that Jotsett might only have made a mistake in the year and really attested it on the 1st Poush Wud, and that is very probable ; but then it would have been the 4th January 1855, and seeing that the stamped paper was bought in January 1854, I can well understand their dating it in Poush, for the bond bears only the date of the Shalivan era, and it would require some care and trouble in comparing dates to detect the fraud ; but even if the Session Judge's surmise were correct, Jotsett would derive no good from it, for his deposition on the trial before the Sudder Ameen would probably have shown that he mentioned the transaction as having taken place not in the last Poush but in the Poush before. The prisoners' depositions before the Sudder Ameen, which ought to have been recorded in the case, are not ; and the Session Judge has recorded many documents without proving them, but upon the prisoners'

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Judge.

admissions, a practice to which he will find, in the printed Reports, the Court have often objected.

Minute by Mr. Keays.—I concur with Mr. Erskine in the view he has taken of this case. The bond on which prisoner No. 1 brought his claim, as soon as prosecutor made an application for the attachment of property, is dated about nine days before the paper on which the document is endorsed left the hands of the stamp-vender; it follows, then, that unless it could be established that the date was a mistake, that the claim affirmed in the bond was a valid one, that the provisions of the bond were carried out, the bond must necessarily be a forgery. Now not one single point of these three has been established. The further advance purporting to have been made on the new bond is not even proved; and, lastly, the parties give no consistent account of the circumstances under which the bond was executed. I hold, therefore, that the bond is a forgery. That it was executed for the purpose of averting the sale of the house, and thereby injuring the complainant Poondliksett, is self-evident, and that it was produced by prisoner No. 1 is admitted by him. For these reasons I concur in the conviction of both prisoners Nos. 1 and 2.

With regard to the conviction of the other two prisoners, I find that they admit having attested the deed, and declare they did so on the day the date of which it bears. This is *proved* to be false; we must therefore fall back on the supposition that the date was a mistake. But here again the ground is untenable, for there is a difference of *nine days*, which is far too great to admit of such a supposition in the case of intelligent men of the class the prisoners are represented to be.

Under these circumstances I can see no reason to interfere with the convictions of these prisoners. I would reject the petitions.

Resolution of the Sudder Foujdaree Adawlut.—Petitions rejected.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Proclamation issued by the Magistrate of Ahmedabad, J. W. HADOW,
 and referred by that Officer to the Sudder Foujdaree Adawlut,
 on the 28th May 1857.]

AHMEDABAD.

Proclamation.—Whereas, in the City of Ahmedabad, the practice of throwing dirt, rubbish, &c. into the roads and streets at the commencement of and during the monsoon, with a view to being washed away, and of throwing rubbish, &c. into drains, watercourses, &c. for the same purpose, has hitherto prevailed, whereby much inconvenience is experienced by the public: Notice is hereby given, that the practice as above set forth is strictly prohibited, and no person or persons are to throw hereafter dirt, rubbish, &c. into the streets, in the manner aforesaid.

Proclamation by
 a Magistrate.

The practice of taking earth and sand from the road and streets in front of houses, whereby holes and inequalities are made where the rain-water lodges, is also prohibited.

Any person or persons who shall disobey or evade compliance with this Injunction will be punished according to the Regulations.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—[Submitting the Proclamation for approval.]

Resolution of the Sudder Foujdaree Adawlut.—Recorded.

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TANNA:

Present, { WILLIAM EDWARD FRERE,
ROBERT KEAYS,
THOMAS CHARLES LOUGHNAN, } Puisne Judges.

[Case No. 9 of the Criminal Return of the Magistrate of Tanna for March 1857. Tried by the Acting Deputy Magistrate, DADORA PANDOURUNG, on the 5th, 6th, 7th, 14th, 16th, and 17th March 1856. Reviewed by the Magistrate, J. D. INVERARITY, on the 21st March 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the petitioner, Jamsetjee Dorabjee.]

Petty Assault.

Prisoners.—No. 1, Bhawoo bin Rajbarow Dabara, Muratha, aged 40.

2, Sayud Mahomed wulud Sayud Oosman, Mussulman, aged 22.

3, Vitoobin Sukojee, Agree, aged 21.

4, Shaik Jafer wulud Shaik Enoos, Mussulman, aged 50.

5, Kajee Amroodin wulud Goolam Mohidin, Mussulman, aged 50.

[See pages 624 to 633, Vol. VII. of 1857, for previous proceedings in this case.]

Letter from the Secretary to Government, Judicial Department, to the Registrar of the Sudder Foujdaree Adawlut.—I am directed to acknowledge the receipt of your letter No. 1146, dated the 2nd instant, forwarding proceedings relative to an assault committed by three men of the Tanna Police and a Sepoy of the Adawlut at that Station, and to transmit, for the information of the Judges of the Sudder Court, copy of the Resolution passed by Government on the subject.

Resolution.—The Right Honorable the Governor in Council is clearly of opinion that the Deputy Magistrate took a more correct view of this case than the Magistrate. The former Officer states that the offence would have been of a trivial nature if it had been committed by any persons but Policemen. The Right Honorable the Governor in Council is not prepared to say that it would

have been a trivial offence on the part of any persons to enter a house at night, to drag an unoffending man into the street, and beat him; but he is clearly of opinion that such conduct was most monstrous on the part of Policemen. The Magistrate speaks of the Policemen having "got into a disreputable brawl with the complainant." This appears to be a very mild representation of four men (three of them Policemen) beating one man. The guilt of the prisoners is, in the opinion of the Right Honorable the Governor in Council, greatly aggravated by the offence. If the prisoners are guilty (a fact of which the Deputy Magistrate, the Magistrate, and the Judges of the Sudder Foujdaree Adawlut have no doubt), then several members of the Tanna Police Force have committed perjury. The Right Honorable the Governor in Council considers that there should have been some record in the Police Superintendent's possession as to who were on duty in Tanna on the night of the 28th February, and whether any Police, and, if so, what "Nos." were sent to Colsette on duty. He wishes Captain Walker to direct his attention to this point, and to institute an inquiry as to the conduct of the Policemen who gave evidence in favour of the prisoners in this case. As to the prisoners themselves, the Right Honorable the Governor in Council considers them to have been guilty of most shameful misconduct, and he accordingly directs their immediate dismissal from the Tanna Police.

2. The original proceedings forwarded with your letter are herewith returned.

3. The Commissioner of Police has been addressed on the subject of the dismissal of the Policemen.

Resolution of the Sudder Foujdaree Adawlut.—Copy of the Government letter and the Court's proceedings are to be sent to the Magistrate of Tanna, for his information.

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TANNA.
Petty Assault.

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BELGAUM.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 102 of the Calendar of the Dharwar Sessions Court for 1856. Committed by the Third Assistant Magistrate, G. W. ELLIOT, on the 23rd July 1856. Tried by the Session Judge, A. W. JONES, on the 12th, 15th, 16th, 22nd, and 23rd September, and 2nd, 4th, and 6th October 1856. Proceedings submitted for confirmation of the Sudder Foujdaree Adawlut, by the Session Judge.]

Murder; Instigating, Aiding, and Abetting in Murder; and Serious Assault, and Instigating, Aiding, and Abetting in the Commission of the Assault.

G. B. S. Karr,
Magistrate.

Prisoners.—No. 1, Dodmula bin Dodyelapa, Berud, aged 26; and four others.

[See pages 902 to 910, Vol. VI. of 1856, for previous proceedings in this case.]

Letter from the Magistrate of Belgaum to the Session Judge of Dharwar.—In reply to your letter No. 2537, dated the 6th December last, enclosing extract (para. 5) of an extract from the proceedings of the Sudder Foujdaree Adawlut, dated 26th November last, on the subject of a statement made by a witness named Roodrapa, I have the honour to inform you that neither I nor the Superintendent of Police in this Collectorate can find any order to the effect that if a person is caught taking away property he may be cut down.

There is an order issued by Mr. Forjett, late Superintendent of Police, dated the 22nd January 1852, authorising and enjoining the Police to use their arms to repel attacks of gang robbers.

Return by the Session Judge to a Précept of the Sudder Foujdaree Adawlut.—In return to this Précept, it is hereby certified to the Sudder Foujdaree Adawlut that the warrants, and extract from the Court's proceedings which accompanied it, have been duly received, and that an extract, being para. 5 of the extract, was forwarded to the Magistrate of Belgaum, copy of whose reply, No. 158, dated 5th instant (received to-day), containing the required information, is herewith transmitted.

Precept issued by the Sudder Foudaree Adawlut to the Session Judge.—The witness is a Police Patel, and the order he refers to most probably is Mr. Forjett's; the Session Judge is to be requested to certify a copy of that order.

Return by the Session Judge.—In return to this Precept, it is hereby certified to the Sudder Foudaree Adawlut, that the extract from the Court's proceedings which accompanied it has been duly received, and that, as directed in the extract, a copy of the order issued by Mr. Forjett is herewith forwarded.*

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Murder; Instigating, Aiding, and Abetting in Murder; and Serious Assault, and Instigating, Aiding, and Abetting in the Commission of the Assault.

* *Translation of an Order from Mr. Forjett, on Special Duty at Belgium, to Soobrao Ayajee, Mamlutdar of Tasgaum.*—After compliments. Formerly a verbal order was given to the effect that Shetsundees entrusted with Police duties of the villages in the Talookas should discharge the duties actively, so as to prevent the occurrence of gang robbery; and that in the event of the robbers attacking a village, notwithstanding the vigilance of the Policemen, if they, on their being fully convinced that they are truly gang robbers, happen to cut any of them with swords, or shoot any of them with guns, they (the Policemen) who do such act shall be rewarded each with a present of Rs. 20. Now, in reference to the above Order, another one is given, to the effect that a circular order should be issued to all the Shetsundees, stating that if any Shetsundee show his bravery in the manner as above stated, he shall, besides the reward of Rs. 20 for killing each robber, have a present of a 'pugdee,' and shall be carried on horseback in procession, consisting of respectable inhabitants, having a horn blowing before him; and, besides this, he shall be promoted to a post of Duffeydar, or any respectable duty. This order will induce the Policemen to earn the aforesaid reputation, by conducting the duties diligently and bravely; but if any one acts cowardly, he shall not only be discharged but punished.

The perpetrators of gang robbery are not brave men: they try to frighten the Police; and if they succeed in this, in case of the Policemen being cowards, they commit robbery without fear; but if they are attacked by the brave Police, they run away to all certainty, and never raise their arms against the Policemen. Should, however, any Shetsundee, in thus attacking the robbers, die, the Sirkar will, without fail, provide for his widow and children: of this the Policemen should be assured, and should never be in doubt. The

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sault.

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to inform the Court whether this Circular Order to the Police is still in force in his Zillah.

Return by the Magistrate.—In returning this Precept, the Magistrate has the honour to state, that the Superintendent of Police reports that the Circular Order alluded to, and which is also returned, was issued by his predecessor, Mr. Forjett, and that it has not been countermanded to his knowledge. The Magistrate has not been able to ascertain from his own records that the Order has ever been recalled, and it must therefore be considered as still in force.

The Superintendent's report above quoted was received in this office on the 30th ultimo. On the 1st instant the Magistrate's establishment left Kuludghee to join the Magistrate on his return from leave. The records only reached the Magistrate's camp last night, hence the delay that has occurred in replying to this Precept.

Resolution of the Sudder Foujdaree Adawlut.—The Order is to be recalled.

Reference from the Magistrate.—Before proceeding to execute the within Precept, the Magistrate of Belgaum begs respectfully to bring to the notice of the Court that the recall of this Order will inevitably be understood by the Police as a prohibition against using their arms against robbers, and the effect will be to paralyse the whole Department. The Magistrate earnestly hopes that the Court will reconsider this important matter. He begs leave to point out that although the Order has been in existence for more than five years, he is not aware of any instance having occur-

above Order, consisting of two paragraphs, should be made known and published among all the Police Shetsundees, and a copy of it fixed up at every Chowdee, and a copy forwarded to the Mahalkurée. Dated 22nd January 1852, Belundee Talooka, Sumpgaum.

red of the Police having used their arms improperly. He respectfully submits that the present is not an opportune moment for running any risk of discouraging such of the Police as are inclined to do their duty.

Further Resolution of the Sudder Foujdaree Adawlut.

—The Magistrate is to be informed, that the Proclamation was brought to the Court's notice by a Shetsundee's referring to it as his justification, when tried on a charge of murder, and it is therefore impossible that they could sanction its being allowed any longer to remain in force.

• That the Court's directing him to recall this does not prevent the Magistrate's issuing any orders that might tend to encourage the Police, provided they do not, as this one does, hold out a premium to them to shed blood, and that the Court must trust to his discretion to carry out their orders in such a way that only the good they seek and are obliged to do, and no ill effects, should arise from it.

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Present, { WILLIAM EDWARD FRERE, }
 { ROBERT KEAYS, } Puisne Judges.

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[Case No. 20 of the General Calendar of the Ahmednuggur Sessions Court for 1857. Committed by the Magistrate, C. E. F. TYTLER, on the 4th May 1857. Tried by the Session Judge, J. W. WOODCOCK, on the 20th, 21st, and 22nd May 1857. Proceedings submitted to the Sudder Foujdaree Adawlut, for confirmation.] AHMEDNUGGUR.

Prisoners.—No. 1, Joitoo, *alias* Bhow wulud Soma, caste Thakoor, aged about 32.

Wilful Murder; accompanied by Gang Robbery by Day, with Force.

2, Rama wulud Mahdoo, caste Thakoor, aged about 25.

3, Kumloo wulud Mhadoo, caste Thakoor, aged 28.

4, Krishna wulud Ragho, caste Thakoor, aged about 22.

Charge.—Wilful murder, accompanied by gang robbery by day, with force (Regulation XIV. of 1827, Section

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XXVI. Clause 1st, and Section XXXVI. Clauses 1st and 3rd) ; in having, on the day of the 29th March 1857, (being Sunday, and corresponding with the 4th of Chuitru Shood, Shuké 1779,) in the village of Koosegaon, situated within the Kownaë Talooka of the Ahmednuggur Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Keywul wulud Dhurumchund Wanee, aged about 25 years, by striking him on the head and body with a sword and stick, whereby the said Keywul wulud Dhurumchund then and there died ; wounding at the same time and place his companion Bhimjee wulud Waljee with the said sword and stick ; in having also, at the same time and place, stolen from their persons property, consisting of cash Rs. 20, clothes, and utensils, to the aggregate value of about Rs. 26-3-11.

Prisoners Nos. 3 and 4 (Kumloo and Krishna) are further charged, under Regulation XIV. of 1827, Section XXVI. Clause 1st, Section XXXVI. Clauses 1st and 3rd, and Section I. * Clause 5th, with aiding and abetting in the aforesaid murder and gang robbery by day, with force ; in having at the same time and place aided prisoners Nos. 1 and 2 (Joitoo and Rama) by keeping watch on all sides while these crimes were being perpetrated by the prisoners Joitoo and Rama.

Prisoners plead not guilty.

C. E. F. Tytler,
Magistrate.

Committal by the Magistrate.—One Keywul Wanee Trimbuchar was murdered by sword-cuts and cudgel-blows at the time and place mentioned in the charge. His corpse was then and there found and identified. It had eight wounds and several blows on it. His companion would in all probability have shared the same fate, but happily escaped to give information.

This murder was committed in the boundary of the village of Koosegaon, not far from the village itself, and on the road leading to Trimluck. The murderers were evidently villagers of Koosegaon, not the slightest suspi-

cion attaching to the neighbouring villages. Prisoners are the only persons who are shown to have been on this road and in this direction on that day and about the time of the murder.

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Bhimjee (the companion of deceased), who escaped from the fray much wounded, named five as the number of the assaulting party : one with a sword, another with a bludgeon, &c.

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On a clue given by the witness Rahee (No. 14), the five prisoners now in Court were apprehended, examined separately, and they one and all made full and free confessions.

These confessions were twice made and twice attested, on different dates and before different Native Magistrates, the Foujdar and Mamlutdar of Kownaee.

Prisoners, when no longer separated, agreed to withdraw these confessions, and all, save prisoner No. 3, now deny having confessed stating they were beaten ; they can show no signs of this, and one, when asked to do so, says " the hand only was used, hence no marks."

Against this stands the evidence of the Native Officers who took down these confessions, and of the attesting witnesses ; and this evidence all goes to show that these confessions were full, free, and voluntary.

But there is also the internal evidence of the confessions themselves. They tally singularly one with another, and they have that unity and consistency which truth always has, and which untruth in detail never has. Moreover, the statements made in these confessions are largely corroborated by other evidence.

The following facts corroborate these confessions :—

The clothes of prisoner No. 1 appeared to have spots of blood on them.

The white turban with blood on it is identified as belonging to prisoner No. 2 (Rama).

The bludgeon found at the scene of the death-

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struggle, and now in Court, with blood on it, is identified as belonging to prisoner No. 2 (Rama).

The account given by Bhimjee (witness No. 7) of the attack tallies with that given separately by the prisoners in their confessions. Bhimjee names five robbers, one with a sword. "The robber with the sword was called," he says.

The broken and bloody sword found hidden with deceased's stolen property, and now in Court, is identified as belonging to prisoner No. 1 (Joitoo).

Deceased was clearly killed with this sword, the property of prisoner No. 1, while the severe bruises on the head and forehead of deceased were clearly inflicted by the bloody bludgeon found near the scene of death, and identified as belonging to prisoner No. 2 (Rama).

In the village of Koosegaon there are, it appears, four swords ; two belonging to Mhars, one to a Patel, and the fourth to Joitoo (prisoner No. 1). More evidence will be sent to Court on this point.

The bloody and twisted state of this sword bears witness to the severe execution it did. The broken sword point, picked up afterwards at the scene of murder and where the blood was, exactly fits this sword. And this is silent testimony to the perpetration of the murder by the sword of prisoner No. 1 of much value.

The state of the sword bears testimony to the truth of the confession of prisoner No. 1, in which it appears that he bore the main brunt of the fray with it, and killed Keywul Wane, Rama (prisoner No. 2) striking him twice or thrice on the head after pursuing Bhimjee, who escaped. The details of the Inquest further bear out these facts, for eight sword-cuts are enumerated on the person of deceased, besides bludgeon-blows. •

In the incidental evidence, where there can be no collusion, may be noticed that of witness No. 16, from which it appears that prisoners Nos. 3 and 4 were out in

the jungle that day, and returned in the direction and about the time they would meet the other three prisoners, as stated by them.

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The whole of this case has been traced from clues given by the witness Rahee, the sister of prisoners Nos. 2 and 4. As their relation (all the prisoners are related), enmity could scarcely be at work. Indeed her tendency has been to screen the prisoners.

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The relationship of the prisoners and witnesses has rendered the case a most difficult one. Most of them, it will be observed, have the common family name of Surraee. These Thakoors are a primitive people, and it is quite characteristic of them at one time to speak the truth fully and freely, and then again wholly to withdraw, feigning stupidity, deafness, and inability to speak or swear. They are really a very astute class.

As it is most probable that they will behave similarly at the Court of Sessions; and as the evidence, though strong, is not complete, the Magistrate, under para. 3 of the Sudder Foujdaree Adawlut's Circular No. 327, of the 14th October 1845, offered a pardon to prisoner No. 3 (Kowjee). He at first naïvely said that if he told the truth the others would spite him, and he was not sure the pledge would be fulfilled. He was assured that if he spoke the truth before the Session Judge, he would be pardoned. On this prisoner confessed the whole circumstances, as detailed in his first confession.

This prisoner has therefore been kept separate from the others, and the Magistrate recommends that he be converted into a witness at the final trial. He is not a principal offender, and his family name is Kudalee, not Surraee.

Prisoners are, on the above evidence, committed to take their trial before the Court of Sessions.

The Magistrate has given a second charge, of aiding and abetting, in case the Session Judge should deem

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J. W. Woodcock,
Session Judge.

this more applicable to the case of prisoners Nos. 3, 4, and 5.

Finding in the Sessions Court.—The remarks of the Magistrate in this case are so pertinent that it would be a waste of time to make any additions to them, concurring as I do most fully with the view he has taken of it. Prisoner Kowjee wulud Kanhoo has been admitted as an approver, and his evidence, as well as the confessions of the four remaining prisoners, are fully corroborated. There is no doubt in my mind that the murder was committed by the first and second prisoners (Joitoo and Rama), and that they were assisted by Kumloo and Krishna (prisoners Nos. 3 and 4) ; and I see no reason to make any distinction between the relative guilt of Joitoo and Rama as principals, and Kumloo and Krishna as accessaries, or in the degree of punishment to be awarded to them respectively.

They are therefore found guilty, viz. Joitoo and Rama (prisoners Nos. 1 and 2) of wilful murder, accompanied by gang robbery by day, with force, under Regulation XIV. A. D. 1827, Section XXVI. Clause 1st, and Section XXXVI. Clauses 1st and 3rd ; in having, on the day of the 29th March 1857, (being Sunday, and corresponding with the 4th of Chuitru Shood, Shuké 1779,) in the Village of Koosegaon, situated within the Kownaee Talooka of the Ahmednuggur Zillah, purposely, and without justifiable or extenuating cause, deprived of life one Keywul wulud Dhurumchund Wanee, aged about 25 years, by striking him on the head and body with a sword and stick, whereby the said Keywul wulud Dhurumchund there and then died, wounding, at the same time and place, his companion Bhimjee wulud Waljee with the said sword and stick : in having also, at the same time and place, stolen from their persons property, consisting of cash Rs. 20, clothes, and utensils, to the aggregate value of about Rs. 26-3-11. And Kum-

loo and Krishna (prisoners Nos. 3 and 4) are found guilty of aiding in and abetting the aforesaid murder, accompanied by gang robbery by day, with force, under Regulation XIV. A. D. 1827, Section XXVI. Clause 1st, Section XXXVI. Clauses 1st and 3rd, and Section I. Clause 5th; in having at the same time and place aided prisoners Nos. 1 and 2 (Joitoo and Rama), by keeping watch on all sides while these crimes were being perpetrated by the prisoners Joitoo and Rama. And the Court passes, under the provisions of Regulation XIV. A. D. 1827, Section XXVI. Clause 4th, the following sentence :—

That you, Joitoo, *alias* Bhow wulud Soma, Thakoor (prisoner No. 1), and you, Rama wulud Mhadoo, Thakoor (prisoner No. 2), be taken to the usual place of execution at Nuggur, and there be hanged by the neck till you be dead; and that you, Kumloo wulud Mhadoo, Thakoor (prisoner No. 3), and Krishna wulud Ragho, Thakoor, be transported beyond seas for life; which sentence is subject to the final confirmation of the Court of Sudder Foujdaree Adawlut, to which the proceedings will be referred.

In the Court of Sudder Foujdaree Adawlut; Resolution of the Court.—The evidence, as recorded in this case by the Session Judge, is sufficient for the conviction of the prisoners, and there is nothing in their petition to controvert it, and the Court confirm both the conviction and sentence. At the same time they point out to the Session Judge that he has not elicited much information from the witnesses, which they gave before the Magistrate, and which he ought to have obtained, or shown why he could not obtain it. There are other defects in the trial, which it is desirable he should correct in future.

A Session Judge, in trying a case, should make himself acquainted with all that the several witnesses deposed

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to before the Magistrate, and, in calling them up for examination, he should do it in such order as will make the evidence as nearly as possible an unbroken narrative. When more than one or two witnesses are sent up to prove the same point, the best of them only should be examined, and if ever a material witness is not procurable the cause of his absence should be elicited from some of the others, and if the Session Judge is unable to obtain from witnesses the same information they gave before the Magistrate, or that appears on the Magistrate's proceedings, he should show, by the examination, that his failure was not to be attributed to his not asking questions which ought to have elicited similar answers, but to some other cause.

To apply these remarks to the present case, the Court observes that the evidence of an approver operating against a prisoner only so far as it corroborates that of other witnesses, or strengthens impressions produced by circumstances, the approver Kowjee ought not to have been the first (as he was) but the last witness examined; the effect of examining him first would be rather to take his evidence as the groundwork of the prosecution, and look to the rest of the evidence as corroborative of his, not, as it ought to be, that his should corroborate what had gone before. And while on the subject of Kowjee's deposition (No. 1), the Court remark that his statement before the Magistrate was far more full than the evidence he gave in Court.

The first witness to have been examined was Bhimjee wulud Waljee, Keywul's companion; but as he had left the country, and where he was gone was not known, Bapoojee Moreshwur (witness No. 9) ought to have been called in first, and it should have been elicited from him why Bhimjee was not in attendance. He should have been examined also, in addition to what he was examined on, as to where the broken point of the sword was found.

to which he deposed before the Magistrate, but not before the Session Judge. He, as well as Gopal Yedneshwur (witness No. 10), has been allowed to repeat conversations not held in the prisoners' presence, which they should not have been allowed to do. Gopal's evidence of what took place before the 5th is only corroborative of Bapoojee's, and of little use; so that, after Bapoojee had been examined, Nowsoo and Bhewjee (witnesses Nos. 2 and 3) should have been called to prove the Inquest Report, and that should have been recorded. After that Barkoo (witness No. 7) should have been called, as Keywul left his house on the 29th to go to Trimbuck, and his evidence tends to throw suspicion on Joitoo and Rama, as he gave it before the Session Judge, on all the prisoners and Kowjee, as it appears in the Magistrate's proceedings. He should also have been asked about Keywul's dress at the time he left him.

The next witness should have been Rahee (No. 8), not only to what she as well as Barkoo overheard the prisoners say, but also as to what she had seen the prisoners do in the morning, and to Joitoo's having a sword with him, and that she told Gopal (witness No. 10) what she had heard: none of this was elicited in the Sessions Court. It would also have been desirable that the Session Judge should have ascertained what occasion there was for Joitoo's saying, "Keywul Wanee has been killed, and his clothes have been kept in the Garee jungle," as it appears to have been addressed to Rama, who must have known it as well as he did himself. Conversation of this kind, when leading to important results, as in this case, should always be traced to its cause and origin.

After this Gopal Yedneshwur's evidence (No. 10) would have come in. All that he relates previous to the 5th is merely corroborative of Bapoo's (No. 9); but of all that was done in consequence of what Rahee (witness No. 8) told him, he is the best evidence. He would

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also have proved the prisoners' confessions. It should also have been elicited from him that Keywul's nephew, Joomkha (witness No. 6), accompanied them in the search, and then his evidence would have come in to prove the clothes found were, some of them, his uncle's, and, as it appears before the Magistrate, that the turban was the one he wore on the day he was killed. The evidence then of Babajee wulud Bal Patel (witness No. 4), which was useless as given before the Session Judge to prove the Inquest Report, should have been taken, as it was before the Magistrate, to identify that of the prisoner Rama's property, which was found in the jungle with Keywul's. Naroo Baboorao (witness No. 11) should then have been called to corroborate Rama's having identified the turban and cudgel, and Joitoo's having claimed the swords as his own, and he, as well as Abdool and Luximon (witnesses Nos. 13 and 14), might have been examined, if necessary, to prove the prisoners' confessions, that is, if they were not proved by Bapoo (witness No. 9), and their apprehension and the search of Rama's house. The confessions should then have been read, and after that Rama (witness No. 12) should have been examined in proof of Kowjee and Kumloo's having been in the Sheoga jungle about noon of the day in question, and it should have been shown how far that jungle was from the scene of the murder, and whether, in going from the spot where they conversed towards the village, Kowjee and Kumloo would have met the others going from the village towards Trimbuck. After this the approver Kowjee should have been examined, and the case for the prosecution would have been complete.

Lastly, the Session Judge should have recorded his own finding, and not, as he has done in this case, have referred to the Magistrate's remarks, which he ought to have recollected were made after a summary inquiry into the

case, and, though very excellent, could not be of so much value as those the Session Judge ought to have made after a formal trial.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

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[Case No. 24 of the General Calendar of the Sholapore Sessions Court for 1857. Committed by the Deputy Magistrate, W. RAYMER, on the 29th April 1857. Tried by the Session Judge, T. A. COMPTON, on the 1st and 2nd May 1857. Proceedings certified to the Sudder Foudaree Adawlut, on the petition of the prisoner.]

SHOLAPORE.

Prisoner.—Eerapa wulud Danapa, Bungar, aged 21.

Robbery with
 Force (by Day or
 Night, unknown).

Charge.—Robbery with force, by day or night unknown (Regulation XIV. A. D. 1827, Section XXXVII. Clause 3rd); in having, on some day between the 18th and 22nd April 1857, (corresponding with Chuitru Wud 9th to 13th, Shuké 1779,) in the town of Sholapore, and in the Talooka and Zillah of that name, broken open a recess in the wall of the idol room of one Shunkrapa bin Solbuna, the complainant, and stolen therefrom a box containing gold ornaments, to the estimated value of Rs. 421, or thereabouts.

Finding and Sentence by the Sessions Court.—The prisoner (Eerapa wulud Danapa) is charged with robbery with force, and pleads not guilty.

T. A. Compton,
 Session Judge.

The complainant (Shunkrapa) affirms that golden ornaments of his, to the value of Rs. 421, were buried in a recess in the wall of his house, and that he was in the habit of looking at the place every seven or eight days; that, ten or twelve days ago, he observed that the ground appeared to have been disturbed, and on examination found that the copper vessel containing all the ornaments had been stolen.

The complainant's suspicions immediately fell upon the prisoner, who is his brother-in-law, and who had

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been frequenting the house for seven or eight days before the robbery, though he had not been in the habit of doing so previously. The prisoner upon this was arrested and placed in confinement, and two days afterwards (so Syud Akbar, Police Naique No. 6, deposes) he told the Naique that if he (prisoner) were taken to the complainant's female cook, he might trace and recover the property. The prisoner was accordingly taken to the woman, who, however, denied having any knowledge of the robbery; and the Naique and the Sepoys with him, Sheik Mohideen and Shiwapa (witnesses Nos. 7 and 8), affirm that the prisoner then confessed the robbery, and promised to point out where the ornaments were buried, and that he then took them to another house of the complainant's, and dug up the box of ornaments out of a heap of rubbish, in the presence of the Foujdar.

The complainant's daughters, Bungarowa and Nimbo-wa (witnesses Nos. 4 and 5), little girls aged seven and nine years respectively, affirm that, one evening *before* the robbery, the prisoner took them to his house, gave them some peas to eat, and asked them where their father kept his valuables, which they accordingly told him; and the prisoner's Vakeel has done everything to shake the evidence of these witnesses, but without success.

The Foujdar (witness No. 10) denies that the Police Naique (as the Naique alleges) told him that the prisoner confessed the robbery, and admits that he did not *question* the prisoner on the subject *till* he pointed out the ornaments; and states that the prisoner then accused the complainant's cook of being the thief. The Naique asserts not only that the prisoner confessed, but that he (the Naique) told the Foujdar this, but the Foujdar did not put any questions to the prisoner.

If the Naique's statements be the truth, the Foujdar was clearly guilty of neglect of duty in not taking down

the prisoner's confession, and Shiwapa Sepoy confirms it; but, at all events, the Foujdar's omission to question the prisoner *at once* was culpable.

The Foujdar's evidence is so unsatisfactory, and so open to the charge of prevarication, that a copy of it will be forwarded for the consideration of the Magistrate, whose attention will also be drawn to the Foujdar's disrespectful conduct and remarks.

The prisoner's defence is a denial that he was in any way concerned in the robbery; he asserts that, suspecting the complainant's female cook of being the thief, he told the Sepoys this, and was accordingly taken to her, and that she then informed him that the complainant's nephew (Rachapa) was the thief, and that the stolen ornaments would be found in a heap of rubbish in the *other* house of the complainant.

The Sepoys, however, all assert that when the prisoner charged the cook with the robbery, she simply denied having been at all concerned in it; and it is much to be regretted that the Foujdar would not take the trouble to accompany the Police, and be present during the conversation with the cook. The two witnesses, however, cited by the prisoner before the Deputy Magistrate, gave no evidence in his favour.

The prisoner is convicted, on the evidence against him, of robbery with force; in having, between the 18th and 22nd April 1857, (corresponding with Chuitru Wud 9th to 13th, Shuké 1779,) in the town of Sholapore, in the Talooka and Zillah of that name, broken into a recess in the wall of a room in the complainant's (Shunkrapa wulud Solbuna's) house, and stolen therefrom a copper box containing gold ornaments, to the estimated value of Rs. 421, or thereabouts.

After a mature consideration of the offence which the prisoner has committed, together with the nature of the punishment provided for the same by Clause 3rd, Sec-

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tion XXXVII. Regulation XIV. of 1827, the Court proceeds to pass the following sentence:—

. That you, prisoner Eerapa wulud Danapa, be imprisoned and kept to hard labour for two (2) years.

Resolution of the Sudder Foujdaree Adawlut.—The petition is rejected.

There can be no doubt of the prisoner's guilt. From the Foujdar's own showing, it appears that there was nothing to justify his keeping the prisoner in confinement on suspicion. From the prisoner's not urging it in his petition, the Court conclude that no improper means were used or promises held out to induce confession; but keeping a man in custody, and letting Peons question him, is not the proper way to trace stolen property, and the Session Judge should have examined the Peons strictly as to the way in which prisoner came to confess.

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AHMEDABAD.

Proclamation by
a Magistrate.

Present, { ROBERT KEAYS,
THOMAS CHARLES LOUGHNAN, } Puisne Judges.

[Proclamation issued by the Magistrate of Ahmedabad, J. W. F. BROW, and referred by that Officer to the Sudder Foujdaree Adawlut, on the 6th May 1857.]

Proclamation.—Whereas it has been represented to the Magistrate that the practice which obtains among some persons of Ahmedabad, of using carts, carriages, &c. drawn by bullocks and horses with bells attached to them, on the public roads, frightens horses not accustomed to the noise, and in this way causes much inconvenience to the public, especially to persons riding and driving along the said roads: Notice is hereby given, that, to prevent such inconvenience to the public, and accidents to persons from horses taking fright and running away, &c., no person is allowed to use carts, carriages, or other vehicles drawn by bullocks or horses, or to ride

horses, so ornamented with bells, along the public roads now frequented by persons taking exercise on horseback and in carriages. Any person or persons disregarding this Injunction will be punished according to the Regulations.

Letter from the Magistrate to the Registrar of the Sudder Foujdaree Adawlut.—[Submitting the Proclamation for sanction.]

Precept issued by the Sudder Foujdaree Adawlut to the Magistrate.—The Magistrate is to be requested to report whether any accidents have occurred to give occasion to the issue of this Proclamation, and whether, if it be necessary, the limits to which the restriction is to be applied cannot be more accurately defined.

Return by the Magistrate.—In reply to the within Precept, the Magistrate of Ahmedabad has the honour to state, that although he has no information before him to enable him to specify any instance in which an accident has occurred attended with injury to any person or persons in consequence of the practice referred to, yet he has on several occasions himself seen riding and carriage horses take fright at the noise of the bells, and though providentially no accident did occur in consequence, such escapes are not always to be reckoned upon, and the Magistrate therefore considered it his duty to guard against the probability of the occurrence of such accidents by prohibiting the practice.

The restriction was only intended to be applied to the larger and frequented thoroughfares, to which, if approved by the Judges, it will be limited.

The Proclamation has not yet been issued.

Resolution of the Sudder Foujdaree Adawlut.—The Magistrate to be informed that the Court cannot sanction this Proclamation.

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AHMEDABAD.

Proclamation by
a Magistrate.

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June 24.

SHOLAPORE.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

[Case No. 23 of the General Calendar of the Sholapore Sessions Court for 1857. Committed by the Assistant Magistrate, G. NORMAN, on the 11th April 1857. Tried by the Session Judge, T. A. COMPTON, on the 13th and 14th April 1857. Proceedings certified to the Sudder Foujdaree Adawlut, on the petition of the prisoner, Nubbee Saheb wulud Bapoobhaee.]

Robbery by Night,
accompanied with
Force.

Prisoners.—No. 1, Shiwmorthee wulud Mahalingapa,
Telee, aged 25.

2, Daoo Saheb wulud Bundobhaee,
Mussulman, aged 30.

3, Nubbee Saheb wulud Bapoobhaee,
Mussulman, aged 32.

Charge.—Against prisoners Nos. 1 and 2 (Shiwmorthee and Daoo), robbery by night, accompanied with force (Regulation XIV. of 1827, Section XXXVII. Clause 3rd); in having, on Monday, the 16th March 1857, (corresponding with Falgoon Wud 5th, Shuké 1778, Samwar,) on the high road near the village of Jugjeewunee, Talooka Indee, in the Zillah of Sholapore, attacked the complainant, Dada wulud Narāyen, as he was going along with prisoner No. 3 (Nubbee Saheb), beaten him with sticks and stones, and plundered him of cash to the amount of Company's Rs. 138, belonging to one Vitoba wulud Jairam.

Against prisoner No. 3 (Nubbee Saheb), under the above Clause, Section, and Regulation, and Clause 5th, Section I. of Regulation XIV., with having instigated and aided prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) in the commission of the above crime; in having concerted the robbery beforehand with prisoners Nos. 1 and 2, and summoned them from their village for the purpose of robbing the complainant Dada, and then, under pretence of being robbed himself, delivered up to

them (prisoners Nos. 1 and 2, Shiwmorthee and Daoo) Rs. 125, which had been entrusted to him by his master Vitoba wulud Jairam.

Finding and Sentence by the Sessions Court.—The prisoners Nos. 1 and 2 (Shiwmorthee wulud Mahalingapa and Daoo Saheb wulud Bundoobhaee) are charged with robbery by night accompanied with force, and the prisoner No. 3 (Nubbee Saheb wulud Bapoobhaee) with instigating and aiding.

Prisoners Nos. 1 and 2 plead guilty; prisoner No. 3 (Nubbee) not guilty.

It appears that the complainant, Vitoba wulud Jairam (witness No. 4), employs Dada wulud Narayen (witness No. 2) and the prisoner No. 2 (Nubbee Saheb) to trade in cloth for him, he supplying the funds, and allowing them half the profits; and on the 15th March 1857, Vitoba gave the former Rs. 138, and the latter Rs. 125, and despatched them to Neergoondée, in the Mungolee Talooka, to purchase cloth.

Dada and the prisoner No. 3 (Nubbee) accordingly set out; but before they had gone two koss, the prisoner No. 3 went off to his own village (Koosoor), where prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) reside, alleging that he was going for some cooking vessels, and Dada adds that on the return of prisoner No. 3 (Nubbee) shortly afterwards, he observed two men following them, wrapped up in kumlees; and on his asking prisoner No. 3 (Nubbee) who they were, he replied at first that they were travellers, and afterwards stated that they belonged to Churchun.

Dada and the prisoner No. 3 then put up for the night at Jugjeewunee, and about 3 A. M. the latter woke Dada, and proposed that they should accompany some Sepoys and prisoners who were going to Beejapoor. Dada, however, refused, and they did not start till an hour afterwards.

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SINGAPORE.

Robbery by Night,
accompanied with
Force.

T. A. Compton,
Session Judge.

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Force.

Dada adds, that when they had gone a little way from the village, he saw the two men with kumlees again; that prisoner No. 3 (Nubbee) entered into conversation with them, but as they spoke in Canarese, Dada did not understand what they were saying; that shortly afterwards the two men attacked him (Dada), struck him with their sticks, knocked him off his bullock, and robbed him of the bag of money in his girdle; that prisoner No. 3 (Nubbee) ran away, but the thieves pursued him, and plundered him also. Dada further deposes that it was too dark to admit of his seeing the faces of his assailants, so as to be able to identify them, and that he *suspects* prisoner No. 3 (Nubbee) of having concerted the robbery.

It is proved by the witnesses Nos. 5, 7, and 8 (Degowda, Syud Kureem, and Syud Hajee) that the houses of prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) having been searched, in consequence of information obtained from prisoner No. 3 (Nubbee), the former gave up Rs. 119-10-0 and the latter Rs. 112, and witnesses Nos. 7, 8, and 9 affirm that prisoner No. 3 (Nubbee) distinctly confessed to them that he had planned the robbery, and told them that they would find the stolen money with prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) in Koosoor.

The prisoner No. 3 (Nubbee) denies having ever made the above confession, or been in any way privy to or concerned in the planning or commission of the robbery; but it is manifest that it was through his confession, or *information*, that the robbers were apprehended, and so much of the booty recovered; and if he was not in league with them, why was he not attacked and beaten, like Dada?

He belongs to the same village as prisoners No. 1 and 2 (Shiwmorthee and Daoo), and is well acquainted; yet, when Dada asked him who they were (on observing that the prisoners were following them), prisoner No. 3

(Nubbee) at first said they were travellers, then that they belonged to Churchum, and next day said that they were Jugjeewunee men.

The Court attaches little or no credence to the evidence of Balaram Sepoy (witness No. 6), who affirms that he saw the three prisoners talking together at Jugjeewunee about 7 P. M. on the evening before the robbery; he admits that he was not previously acquainted with any of them, but saw their faces distinctly in the moonlight; but the 15th March was five days after the full moon, when there was of course no moonlight at 7 P. M., and even if there had been the evidence would have been doubtful.

Dada, however, proves that the prisoner No. 3 (Nubbee) went to Koosoor almost immediately; and it is, to say the least of it, highly probable that he then arranged the whole affair with prisoners Nos. 1 and 2 (Shiwmorthee and Daoo); and prisoner No. 3 (Nubbee) admits having spoken to them at Koosoor, and told them that he was going to buy cloth at Neergoondée, and Dada again saw him in conversation with prisoners Nos. 1 and 2 just before the robbery; and, unless he had been their accomplice, it is hardly probable they would have spoken to him.

Prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) are convicted on their own confessions, and the evidence against them, of robbery by night, accompanied with force; in having, on the night of Monday, the 16th March 1857, (corresponding with Falgoon Wud 5th, Shuké 1778, Somwar,) on the high road near the village of Jugjeewunee, Talooka Indee, in the Zillah of Sholapore, attacked the complainant, Dada wulud Narayen, as he was going along with prisoner No. 3 (Nubbee), beaten him with sticks, knocked him off his bullock, and plundered him of a purse containing Rs. 138; having also taken or obtained from pri-

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soner No. 3 (Nubbee) Rs. 125; both sums being the property of the complainant, Vitoba wulud Jairam.

Prisoner No. 3 (Nubbee Saheb) is convicted on his own confession (now retracted), and the evidence against him, of aiding in the commission of the above robbery; in having planned the aforesaid robbery with prisoners Nos. 1 and 2 (Shiwmorthee and Daoo), spoken to them immediately before the attack, and, under pretence that he was being robbed, delivered up to the prisoners Nos. 1 and 2 (Shiwmorthee and Daoo) Rs. 125, belonging to his employer, Vitoba wulud Jairam.

After a mature consideration of the offences which the prisoners have committed, together with the nature of the punishment provided for the same by Clause 3rd, Section XXXVII., and Clause 5th, Section I. of Regulation XIV. of 1827, the Court proceeds to pass the following sentence:—

That you, prisoners Nos. 1, 2, and 3 (Shiwmorthee wulud Mahalingapa, Daoo Saheb wulud Bundhoobhaee, and Nubbee Saheb wulud Bapoobhaee), be severally imprisoned and kept to hard labour for two (2) years; and that you do further, under the provisions of Act XVI. of 1850, pay a fine of ten (10) rupees each, which is awarded in compensation to the complainant; the fine to be levied, if necessary, by distress of the prisoners' property.

Resolution of the Sudder Foujdaree Adawlut.—There can be no doubt but that petitioner instigated the other prisoners to commit this robbery, and his petition must be rejected.

There is much the same plan pursued towards the prisoners by the Police in this case as in the case of Eerapa, though, in this case, while the District Police Officer is in the village, the Patel and Police Peons are sent to question prisoners, and take their confessions from them,—a duty which the District Police Officer should have himself performed. The Session Judge is to be directed

to watch these cases more attentively than he appears to do, and to see that no improper influence or means are used to obtain these confessions; and if he finds that any has been used, to reject the confession and all that resulted from it, the fault resting with the Police (should a guilty man escape, for using improper means) to obtain evidence.

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SHOLAPORE.

Robbery by Night,
accompanied with
Force.

Present, { WILLIAM EDWARD FRERE, } Puisne Judges.
 { ROBERT KEAYS, }

1857
June 24.

POONA.

[Case No. 4 of the Criminal Return of the Magistrate of Poona for April 1857. Tried by the Deputy Magistrate, NANA MOROJEE, on the 30th March 1857. Confirmed by the first Assistant Magistrate in Charge, D. C. LEIGHTON, on the 1st April 1857. Reviewed by the Acting Session Judge, C. M. HARRISON, on the 6th June 1857. Proceedings submitted to the Sudder Fojjdaree Adawlut by the Acting Session Judge, for final orders.]

Prisoner.—Kisun bin Vitoba, Rungaree, aged 25.

Appropriation
of another's Prop-
erty by Breach
of Trust.

Charge.—Appropriation of another's property by breach of trust (Regulation XIV. of 1827, Section XL); inasmuch as, on or about 14th December 1856, (Margsheershi Wud 3rd, Shuké 1778,) in the City of Poona, the complainant Radha, mother's name Chima, entrusted to you, for the purpose of being dyed, a 'dooputa' (i. e. a sash) with gold borders, worth about Rs. 81, which subsequently you fraudulently appropriated, by mortgaging or otherwise disposing of it.

Prisoner pleads not guilty.

Finding and Sentence by the Deputy Magistrate.—The evidence for the prosecution (Nos. 1 and 2), and the prisoner's own statement, prove that, about the middle of December last, complainant delivered to prisoner a valuable dooputa for the purpose of being dyed. It is likewise evident that the cloth has not been returned to the owner. She urges that prisoner has fraudulently appropriated it, whilst he alleges that it has been stolen from his shop. If the complainant's assertion is true,

Nana Morojee,
Deputy Magis-
trate.

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the prisoner has made himself liable to punishment for fraud; if, on the contrary, the prisoner's statement is correct, he must be regarded innocent.

The prisoner submits that, when he missed the dooputa from his shop, he lodged immediate information before the Cantonment Kotwal. This Officer's communication (No. 9) does not, however, support the prisoner's assertion. Further, in the bond (No. VII.) passed by the prisoner himself, he virtually admits having mortgaged the dooputa. The bond is most satisfactorily proved by the testimony of witnesses Nos. 3 to 6. Under these circumstances there appears to be no room for doubting the guilt of the prisoner, who is accordingly convicted of fraudulent appropriation of another's property, as set forth in the charge.

The Kotwal's communication (No. IX.) shows that the present is not the first offence proved against the prisoner. The sentence (Regulation XIV. of 1827, Section 40) against him now is, that he be imprisoned with hard labour for two (2) months, and then pay a fine of fifty (50) rupees, commutable to imprisonment with hard labour for a further period of two (2) months. The fine, or any portion of it, if realised, to be awarded as compensation to the complainant.

Sentence subject to the confirmation by the Magistrate: (Regulation IV. of 1830, Section III.)

D. C. Leighton,
First Assistant
Magistrate.

Confirmation by the First Assistant Magistrate.—In the bond the prisoner admits having mortgaged the dooputa, and this bond he allows he passed. The rest of the evidence tends to show that he received and did not return the dooputa in question, and the conviction is therefore upheld, and the sentence confirmed.

C. M. Harrison,
Acting Session
Judge.

Reviewed by the Acting Session Judge.—The prisoner states that the dooputa and two turbans were stolen from him, and the Exhibit No. 9 proves, as far as the two turbans are concerned, that his statement is true.

The bond is dated 14th February 1857 (not January 1857, as stated in the margin of the Deputy Magistrate's proceedings); and, as it appears from the Foujdar's proceedings that the prisoner was arrested on the 13th February, and, not being able to find bail, was kept in custody until the 14th, when the complainant's deposition, the prisoner's statement, and the bond in question (which was produced by the prisoner himself) were entered, it does not appear how it could have been executed on the 14th.

It seems probable that the prisoner did, as he admits, pass a bond to witness No. 3, intending to purchase another dooputa with the amount for the complainant; but it is evident, from its remaining in his hands, that he did not receive the amount, and he does not appear to have been made aware of its contents.

Under the above circumstances, being of opinion that the charge is not proved, and that the conviction and sentence by the Deputy Magistrate, confirmed by the First Assistant Magistrate in Charge, should be annulled, the whole of the papers and proceedings in the case are forwarded for the final orders of the Judges of the Sudder Foujdaree Adawlut.

Resolution of the Sudder Foujdaree Adawlut.—The observations of the Session Judge should, in the first instance, have been submitted to the Magistrate for any observations he might have to make upon them, and those observations should have been forwarded to the Court with the proceedings.

It appears to the Court clear that prisoner did receive the dooputa; and he has not proved that it was stolen from him, or lost, and that he tried to make reparation for it. They think he has been properly convicted, and direct that the Session Judge may be so informed.

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